

BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION
INTEGRATED ENERGY POLICY REPORT COMMITTEE

WORKSHOP
STAFF-PROPOSED CHANGES TO
DATA COLLECTION REGULATIONS

CALIFORNIA ENERGY COMMISSION
1516 NINTH STREET
HEARING ROOM B
SACRAMENTO, CALIFORNIA

TUESDAY, MAY 2, 2006

9:33 a.m.

Reported By:

Peter Petty

Contract No. 150-04-002

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John Geesman, Commissioner
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Tim Tutt, Commissioner Advisor

Melissa Jones, Commissioner Advisor

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P R O C E E D I N G S

PRESIDING MEMBER PFANNENSTIEL: This is the reconstituted Integrated Energy Policy Report Committee. I am Commissioner Jackalynne Pfannenstiel, and to my right is Commissioner John Geesman. To my left is my Advisor, Tim Tutt, and to John's right is his Advisor, Melissa Jones.

This is a proceeding under the auspices of the Integrated Energy Policy Report Committee to consider possible changes to the Energy Commission regulation on data collection for the Energy Policy Report, and the complaint and investigation procedure, and the disclosure of Energy Commission records.

There is a document that we'll be discussing today which has been circulated, the Staff Report recommending changes to these regulations, and we will spend whatever time it takes to go through the report and to get on the record your comments on the report. We'll then make any necessary adjustments and forward the report to the Office of Administrative Law for adoption.

When that -- Commissioner Geesman, any opening comments?

1 COMMITTEE MEMBER GEESMAN: No.

2 PRESIDING MEMBER PFANNENSTIEL: Then let
3 me go to Chris Tooker.

4 MR. TOOKER: Thank you very much.

5 Good morning. My name is Chris Tooker,
6 I'm the current Staff Project Manager for the
7 Staff Report we've prepared today. We're now
8 going to introduce our staff team that will be
9 presenting the material toady. On my right is
10 Caryn Holmes, Staff Counsel, who did the lion's
11 share of the work in trying to put this all
12 together and deal with staff to make changes.

13 We had a, a team of staff including Al
14 Alvarado, dealing with electricity supply; Lynn
15 Marshall, demand; Jairam Gopal, natural gas; Jim
16 McKinney, environmental trends; and Mark Hesters,
17 transmission. And those people are here today and
18 will be available to respond to questions. Caryn
19 will lead us through the individual sections and
20 summarize them, and then take comments from the
21 audience, and we'll discuss those and then respond
22 to questions from the Committee.

23 Just a few housekeeping matters. As
24 many of you probably know, there are bathrooms
25 both on the south end and the north end of the

1 atrium, and there's a coffee shop up on the second
2 floor landing, for your information. And I think
3 if we need extra chairs we can rob them from
4 another room. I'm not sure with the Fire Marshal
5 would say, but we'll find a place to put them.
6 There are a couple of chairs right over here if
7 anybody needs them.

8 So with that, I will hand it over to
9 Caryn.

10 STAFF COUNSEL HOLMES: Thank you.

11 As Chris said, I was the --

12 MR. TOOKER: Oh, before we proceed, we
13 have a few more people on the line I'd like to
14 get. We just had a, a few people come on the
15 line. We'd like them to identify themselves. The
16 last person we identified was from IID.

17 MR. PIGOT: This is Jack Pigot, from
18 Calpine.

19 MR. TOOKER: Anybody else on the line?

20 MS. VORT: Eileen Vort.

21 STAFF COUNSEL HOLMES: Could you spell
22 your name, please?

23 MS. VORT: V-o-r-t.

24 MR. TOOKER: Anybody else on the line
25 that's just come on? Thank you.

1 Caryn.

2 STAFF COUNSEL HOLMES: Thanks.

3 As Chris said, I was the one who was
4 responsible for pulling together the different
5 staff proposals into a single package. That means
6 that the mistakes, and there are some mistakes,
7 are my responsibility and not theirs.

8 This is a staff proposal and the
9 committee is here today to listen to what you have
10 to say about the staff proposal. We're
11 particularly interested in knowing whether or not
12 any of the new requirements entail collection or
13 creation of information that you don't otherwise
14 collect. If it involves information that you
15 currently provide to another entity in the same or
16 a different format we're interested in finding out
17 about how to coordinate the dates for filings that
18 you make with other entities, with dates that
19 we're going to have to -- have to use in order to,
20 to produce the IEPR on the schedule that the
21 statute requires, so the more specific you can be,
22 the better.

23 In addition, as I pointed out, we are
24 already aware of several mistakes in the package.
25 If you see things that you think are errors, or

1 even if they're just typographical mistakes,
2 please let us know so that we can, we can correct
3 those.

4 I want to, I want to start off by
5 talking about what this process is that we're
6 doing. There is a, a formal process that we have
7 to go through to change our regulations. We
8 haven't started that yet. This is sort of what,
9 what we refer to as the informal process. The
10 formal process starts when we prepare a package of
11 changes, a notice, and another document that
12 explains the rationale for all of the changes.
13 And we submit that to the Office of Administrative
14 Law.

15 There's a public notice of that filing.
16 Once that filing is made there is a minimum 45-day
17 review and comment period, and you are welcome to
18 provide comments during that time. At the end of
19 the 45-day period, if there are no changes,
20 further changes to the regulations, there will be
21 an adoption hearing at a Commission Business
22 Meeting where you will also be allowed to provide
23 comments. We then prepare a final package that we
24 submit to the Office of Administrative Law. They
25 take approximately six weeks to go through that

1 package and approve it or not approve it.

2 So that gives you some sense of the
3 schedule that we've got. If we were to be able to
4 proceed with the filing with OAL in the beginning
5 or the middle of June, we'd probably be looking at
6 the regulations being in effect around the middle
7 to the end of October. And I think that there's,
8 there's a, a strong desire on our part to have
9 regulations, new regulations with the new
10 information requirements in place by the time we
11 start the data collection process for the next
12 IEPR cycle.

13 The reason that we're doing the informal
14 process and having this workshop here today is to
15 try to get comments so that we can minimize the
16 amount of disagreement once we initiate the formal
17 process. We'd like to get as much resolution as
18 we can before we begin that.

19 What I'd like to do now is walk through
20 generally the three sets of topics and the
21 proposed changes to them that, that you have in,
22 in the package. The first set of changes concerns
23 the Commission's Complaint and Investigation
24 process.

25 Let me take one second here. If any of

1 you are big picture people like I am, you may be
2 confused. In fact, I've gotten comments to that
3 effect from several people that I've talked to
4 about how these regulations are organized, and why
5 are there two Chapter Threes and two Chapter Fours
6 that you are proposing changes to. I didn't
7 anticipate that there would be this many people
8 here, but I did make 15 copies of an outline of
9 our regulations so that you can see how they fit
10 together, and I can bring more in after a break.
11 So if people would appreciate that, it might be
12 helpful as we walk through.

13 Jason, can you kind of pass this around?

14 SPEAKER ON PHONE: Caryn, could you make
15 that outline available electronically?

16 STAFF COUNSEL HOLMES: I probably can.
17 I just pulled it off of, out of Barkley's, but I
18 can certainly, I can certainly make a, a document
19 and post it if that would be helpful for people.

20 SPEAKER ON PHONE: That would be
21 fantastic.

22 STAFF COUNSEL HOLMES: It, it is, it is
23 really confusing if you're not -- if you don't
24 understand the, the structure of the Commission's
25 regulations it can be confusing to go through

1 them.

2 MR. TOOKER: Well, are you requesting
3 that we post it at this time, or later?

4 STAFF COUNSEL HOLMES: I can't do it
5 now. It has to be later.

6 MR. TOOKER: Yeah, right.

7 MS. KELLANI: I have a -- Wendy Kellani,
8 from SDG&E. I have a question regarding the
9 informal process, as to whether there's going to
10 be an opportunity for parties to suggest their own
11 changes to your regulations?

12 STAFF COUNSEL HOLMES: Yes. I think
13 that we obviously didn't give people as much
14 notice as we would've liked, and we did get one
15 set of, of comments in before the workshop.
16 There's going to be another opportunity for
17 comments, I believe it's on the eighth, I can't
18 remember. Is that correct? And if you, if, if
19 that's not, if that's not enough time I encourage
20 you to talk to the Commissioners about what kind
21 of a schedule would, would work better.

22 The goal here is to try to finish this
23 process before we begin the data collection for
24 the next IEPR, and we do have, we do have some
25 room. The question is, you know, where do we,

1 where can we best use the, the room, the time, the
2 extra time to our advantage.

3 MR. BROWN: To the extent you get a
4 number of comments on the eighth and some, you
5 know, may not be exactly the, the same, and you
6 turn the revision that is fixing, you know, some
7 of those typos and other errors that were in the
8 original document, do you imagine having another
9 iteration of the informal process to get it
10 finalized before you put the original submission
11 to OAL, or do we now have to afterwards shift from
12 that to the formal OAL process?

13 STAFF COUNSEL HOLMES: I think it will
14 probably depend on the extent of the changes that
15 people recommend and the amount of, of difference
16 of opinion that there is in the proposed changes.
17 The Committee will be reviewing the comments and
18 proposed changes that they get from parties and
19 making a decision both about whether to hold an
20 additional workshop and then also which changes to
21 accept and which ones to not accept. So --

22 MR. BROWN: I'm, I'm Andy Brown from
23 Ellison, Schneider and Harris. We are
24 representing Constellation Companies, which
25 includes Constellation Energy and Constellation

1 and Generation Group and Constellation Monitoring
2 Group. And I, for one, would encourage that the
3 May date might get pushed a little bit, and that
4 you do have at least another workshop opportunity
5 to work these things on an informal basis and, and
6 have some dialogue on both what you're aiming for
7 with that data collection and -- because I know
8 one of the things that was mentioned off the top
9 was, you know, let us know what data you're
10 already getting and what form, and those kinds of
11 things, and especially with the timeline that
12 happened, it just didn't, there wasn't any way for
13 that to happen.

14 STAFF COUNSEL HOLMES: Right. Well,
15 currently we can see that there's going to be a
16 need for another workshop. It's better to have it
17 before we start the formal process.

18 MR. BROWN: Yes.

19 STAFF COUNSEL HOLMES: Because once you
20 start the formal process there's all kinds of
21 additional procedural requirements that OAL
22 attaches to anything that you do during that time
23 period. So if the Committee takes a look and says
24 yeah, we really need to have one more discussion
25 about this, my recommendation to them is certainly

1 going to be do it before you have the formal OAL
2 filing.

3 MR. TOOKER: Let me make a comment. The
4 proceeding is being recorded today. All we have
5 is recording mics here, so if you're not close to
6 these mics, when you make a comment go to the
7 podium on the far side of the room, or speak up,
8 one or the other. I'm sure the recorded will let
9 us know if we're not picking up.

10 STAFF COUNSEL HOLMES: He apparently can
11 hear Andy.

12 MR. BROWN: So is this the time to make
13 comments, or should we wait until the end?

14 MR. TOOKER: Well, I think Caryn's going
15 to go through the first, the section on complaints
16 and, and requests for investigation.

17 STAFF COUNSEL HOLMES: I was -- I'm
18 sorry. I was planning to give sort of an overview
19 of each of the three sections of changes, and then
20 we can, we can either go into each section in
21 detail after that's done, or we could do it as I
22 conclude my summary of each section.

23 MR. BROWN: I just wanted to sure --
24 make sure that we have the opportunity to make
25 those comments so the Commission will be able to,

1 to hear us.

2 PRESIDING MEMBER PFANNENSTIEL: There
3 will be an opportunity.

4 MR. BROWN: Okay. Thank you.

5 STAFF COUNSEL HOLMES: All right. Then
6 I'll start with the, the Chapter 1, Article 4
7 which is a series of, of regulations that govern
8 complaints and investigations. These regulations
9 are applicable to a whole lot of things besides
10 data collection process and, in fact, I don't
11 believe we've ever used the complaint and
12 investigation process to, to address data
13 deficiencies. But there is language in SB 1389
14 which, of course, revamped our data collection
15 responsibilities that we needed to get pulled into
16 these regulations.

17 So we, we, I prepared some changes that
18 correct typographical errors. They also shorten
19 some of the time period which is consistent with
20 the language in 1389, so that you don't have a
21 complaint process that drags out for months and
22 months on end. The changes also specifically
23 allow for a staff assessment so that the
24 Commission is going to be making a decision on
25 this or, or a committee, if a committee is

1 assigned, can see sort of both sides of what, what
2 the issue is.

3 And I think that's, I think that's
4 pretty much, I think that's pretty much it. We're
5 shortening the timeframes and explicitly allowing
6 for a staff filing, and trying to make this more
7 consistent with the discussion in 1389.

8 Another change that you will see in the
9 next iteration that has nothing, per se, to do
10 with data collection is that since these
11 regulations were originally adopted there's a, a
12 new section of law was adopted in the Government
13 Code that governs adjudicative proceedings, and
14 that's not been picked up in our regulations and
15 we will simply reference that in here so that
16 anybody who is involved in one of our Commission
17 proceedings knows to look at those sets of
18 requirements also. They already apply, it's just
19 that anyone looking at our regs doesn't know that.
20 And so we want to make certain that people do know
21 that.

22 The next section that we have changes to
23 is -- that was the primary focus of this
24 rulemaking, and that's data collection. Data
25 collection is divided into two sections for

1 purposes of this rulemaking. There are more
2 sections. If you look through the outline you can
3 see that.

4 The first is what we call our QFER regs,
5 and generally, in the, in the past, QFER has been
6 historical, short-term historical data. It's been
7 expanded some, but we're, we're trying to keep
8 that distinction in place with these changes.

9 MR. BROWN: Could you just reference the
10 page numbers when you --

11 STAFF COUNSEL HOLMES: I'm sorry. This
12 is on -- begins on Page 7.

13 The changes to the definitions are
14 designed to try to capture changes that have
15 happened in the market. We've got new market
16 participants that weren't included. We've got
17 changes to the NAICS codes that need to be made
18 to, to bring the regs up to date. We've brought
19 in LNG and LNG terminals. I know that, I think it
20 was Jeff Harris had some questions about those
21 regulations, and the definitions are picked up for
22 those entities here. We've picked up a definition
23 -- we moved the definition of electric
24 transmission system from what we call the, the CFM
25 regs, the next article, to back to the QFER regs.

1 We have, in Section 1303 that begins on
2 Page 14, we've done some clean-up language to
3 that. We deleted delegation language on Page 16
4 that nobody has ever used. Delegation is still
5 allowed, but we've deleted the, the two that were
6 not used. The third one that we've left in, the
7 third opportunity for delegation is still
8 available. And I believe that's it for the, the
9 general, general requirements.

10 In Section 1304, which begins on Page
11 20, these proposed changes require fuel use for
12 electricity generation and steam production to be
13 specifically called out. It also requires that
14 the annual reporting requirements that apply to
15 the one to ten megawatt plants, the requirement
16 for reporting still remains annual, but the time
17 period would be monthly. So you'd be reporting
18 monthly data annually.

19 This is also the section where we've
20 identified environmental data. This is all new
21 language. It is, I believe, less information than
22 we asked for in the last IEPR cycle, and we had
23 pretty good compliance and not, not too
24 significant, not too many significant problems
25 with that, so we're hoping that by tracking what

1 we did in the last cycle we've come close to, to
2 what's going to, what's going to be workable for
3 the generators as well as give us what we need.
4 And I'm sure there'll be discussion about that
5 later on.

6 This section -- did you want to --

7 MR. TOOKER: And there is an error.

8 STAFF COUNSEL HOLMES: An error.

9 MR. TOOKER: It's not 1966, it's 1996.

10 STAFF COUNSEL HOLMES: For the, for the
11 biological data we had asked people to identify
12 habitat types for changes that had occurred since
13 1966. It should have been 1996. So I hope that
14 alleviates some angst.

15 (Laughter.)

16 STAFF COUNSEL HOLMES: That's in Section
17 1304(a)3(C)(1), which I believe is Page 27. Yeah.
18 So the, the third full paragraph on Page 27.

19 So I'm sure that as we go through these
20 there'll be lots of discussion about, about that.
21 And we're particularly interested in finding out
22 what reports people do provide with respect to
23 biological data that we could incorporate. That
24 would be, that would be great if we could do that.

25 The UDC reports have been changed to, to

1 be quarterly. And there's additional information
2 required. You can see that on Page 29, the top of
3 Page 29, for the, for the UDC reports.

4 The Control Area Operator Reports,
5 Section 1305, on Page 29. This would require
6 quarterly submittals to include monthly data.
7 Currently it's just quarterly data, so this would
8 be monthly data submitted quarterly.

9 Section 1306, which is the LSE, UDC
10 reports. That, these changes would require the
11 utilities to provide rate information, electric
12 rate information, and requires all reports to be
13 quarterly. The existing regs had very confusing
14 language about when reporting was required, the
15 frequency.

16 Section 1307, which begins on 31. This
17 is designed to limit reporting requirements in
18 this section to those gas retailers that don't
19 report under 1308, and we've also asked for
20 monthly price estimates quarterly. Currently we
21 just ask for quarterly price estimates provided
22 quarterly.

23 Section 1308, which begins on 32. This
24 requires quarterly reporting of monthly deliveries
25 classified by customers, revenue and volume for

1 eight different market segments. Most of that
2 stuff is existing. It's just that it's now
3 monthly instead of quarterly.

4 We have changed the annual, the monthly
5 natural gas delivery reports. It was an annual
6 report, now it's a monthly report and it's
7 segregated slightly differently. You can see
8 those changes on Pages 35 and 36, for those of you
9 that are interested in gas reports.

10 In Section 1309, we propose to add LNG
11 facilities and, again, to require monthly rather
12 than annual reporting. It's on Page 37.

13 In Section 1310, we've added LNG
14 terminals to the Natural Gas Processor reports.

15 Section 1311 is a brand-new section
16 directed at energy efficiency, and I know that
17 some of the municipal utilities will be interested
18 in that. This, we are required to collect energy
19 efficiency program data under SB 13 -- excuse me,
20 1037, and this regulation is designed to get, add
21 that information.

22 Beginning on Page 41, there's the
23 Article 2. The title is Forecast and Assessment
24 of Energy Loads and Resources. You'll probably
25 hear staff refer to it as the CFM section of the

1 regs, which is a holdover from the past. We
2 deleted the first section under 1340 that, that
3 talked about the scope of this particular article,
4 and instead we've simply identified who the
5 affected parties are in each regulation. So
6 that's not, that's not a significant change.

7 Similarly, in the rules of construction
8 and, and the definitions in 1341, we have, we have
9 deleted the definitions of the entities that are
10 required to report. We've simply identified them
11 in each individual section that requires
12 reporting, and we've referred back to the
13 definitions that, that were -- that are contained
14 in the QFER section, the QFER regulations.

15 Minor changes to 1342, clean-up changes,
16 saying that the information comes to the
17 Commission instead of a specific office that
18 doesn't exist anymore in the Commission. I don't
19 anticipate there'll be much discussion about that.

20 Section 1343, which is the end, end use
21 survey plans, surveys and reports. This section
22 we deleted references to SIC codes, since we don't
23 use them anymore. We use the NAICS codes. And we
24 have, we're trying to clarify who actually has the
25 responsibility for making the various filings in

1 that section.

2 In Section 1344, on the load metering
3 reports, this would expand the reporting of hourly
4 system loads to include LSEs with peak demand of
5 50 megawatts and more, would change the due date,
6 and again, we want to hear from, from people about
7 potential conflicts with due dates. We did
8 eliminate the reporting of sector peaks and we
9 also propose to require transmission system owners
10 to provide historic hourly loads by sub-area.

11 On Demand Forecasts, we -- which is
12 Section 1345, beginning on Page 55, we've added a
13 little bit more specificity about what's required.
14 We've specifically called out hourly loads and
15 departing load assumptions, returning load
16 assumptions, if you're making them.

17 Section 1346, on the next page, is,
18 addresses electricity resource adequacy. This is
19 a new section to help us meet our mandate to
20 assess resource adequacy. We're specifically
21 focused on short-term contractual issues here. I
22 want to say that to differentiate it from the
23 long, longer term demand forecasts.

24 1347, on the next page. This is
25 resource plans. These revisions here we're asking

1 for more detailed information about supplies and
2 costs, and the criteria that people use to develop
3 their resource plans. We've also deleted the
4 transmission information from that section because
5 it will be moved into a new section.

6 Section 1348, on pricing and financial
7 information. We're asking people to call out
8 wholesale and retail prices. Previously the
9 regulation just said prices.

10 Section 1349 is a new regulation. It
11 includes some of the information from 1347, but it
12 also identifies new information to allow us to do
13 more thorough assessments of the transmission
14 system.

15 Section 1350, under exemptions. The
16 changes to the section qualify the availability of
17 the exception -- exemption, and there is an error
18 in the draft that you received. It's not a
19 thousand megawatts, it's 100 megawatts. So --

20 MR. TOOKER: To your disappointment, I'm
21 sure.

22 STAFF COUNSEL HOLMES: So, and the
23 intent here was simply to, to clarify the
24 exemption process to say that you may get a full
25 exemption, you may get a partial exemption, or

1 there may be no exemption, and --

2 MR. BROWN: Is it supposed to be 100
3 megawatts or more, or less?

4 STAFF COUNSEL HOLMES: Good point.
5 Thank you. Again, I take responsibility for all
6 the mistakes.

7 MR. TOOKER: That should be less rather
8 than more.

9 STAFF COUNSEL HOLMES: No.

10 The next section is on the disclosure of
11 the Commission records. The changes to this
12 section are designed to head off problems that we
13 had last year and distinguishing between what
14 happens when you have a Commission decision on
15 confidentiality and what standards should govern
16 that versus what happens when you have an
17 Executive Director decision on confidentiality and
18 what standard governs that. We can, if people are
19 interested in that we can get into that in greater
20 detail. I'm not going to include a detailed
21 discussion of that in my, in my summary.

22 But that is the primary, that is the
23 primary intent of this, is to say that an
24 Executive Director decision is governed by a
25 reasonable claim standard, and anytime a, a

1 question of confidentiality of any information
2 goes to the Commission as a whole, the Commission
3 is, is bound by -- bound to make its decision
4 based on whether or not the person seeking to keep
5 the record confidential has met their burden of
6 proof under the Public Records Act.

7 We think this is a standard that's
8 required under the Public Record Act, and we'd
9 like to see it explicitly stated in our
10 regulations.

11 And I know there is some concern about
12 the fact that the aggregation language, I have
13 heard some concern about the fact that the
14 aggregation language has been in the
15 confidentiality section which talks about which
16 aggregations are deemed to protect confidential
17 information, I have heard some concerns about
18 those not being protected enough. It's my
19 understanding, and staff is here to talk, that
20 these are exactly the same levels of aggregation
21 that exist in the, in the existing regs.

22 So if people want to discuss that, we've
23 got staff here that can, that can address that.
24 But I wanted to make that point, that the -- our
25 intent was not to change the levels of aggregation

1 that are identified in the regulations as
2 protecting confidentiality.

3 So that is a brief summary of the
4 proposed changes, and --

5 MR. TOOKER: I wanted to make a comment.
6 When we go back and go through the specific
7 changes I'd like to have the technical staff come
8 forward when their sections are being discussed.
9 We have Mike over here to my left, in a chair in
10 great demand. If you could come forward at that
11 time.

12 STAFF COUNSEL HOLMES: Do we have, does
13 anybody have any comments, questions, concerns
14 about the proposed changes to the complaint and
15 investigation regulations, which is the Article 4
16 of Chapter 1, the first group of regs?

17 Jeff?

18 MR. HARRIS: Caryn, you said be short,
19 so these, those are all required by staff?

20 STAFF COUNSEL HOLMES: There's a,
21 there's, if you look at -- let me pull out the
22 section. If you look at Section 25322, there are
23 some very very short dates in there, and I'm not
24 even sure that they meet the requirements of --
25 the due process requirements for notice under the

1 Government Code.

2 I'm looking at, I'm looking at the
3 Warren-Alquist Act now, so my goal here was to try
4 to, to get the shorter timeframes that the, that
5 our Warren-Alquist statute calls for, but still
6 provide the minimum amount of notice that's
7 required for under the due process requirements in
8 the Administrative Adjudication portions of the
9 APA.

10 So it's a balancing test, because there
11 are not specific dates that are given in, in the
12 APA, the Government Code Section 11400s, but they
13 do talk about constitutional concepts of due
14 process, and some of the timeframes that are
15 listed in the Warren-Alquist Act for the
16 penalties, for example, five days notice. Hard
17 for me to, to believe that that would, five days
18 notice would, would be okay. So we tried to, we
19 haven't, we haven't shortened it as much as the
20 statute might allow us to, but I think that what
21 we've done is, is shortened it consistent with the
22 intent of the statute while still protecting the
23 due process rights that people have to receive
24 notice before the Commission imposes penalties for
25 non-compliance.

1 MR. BROWN: What, what was wrong with
2 the existing time periods?

3 STAFF COUNSEL HOLMES: The existing
4 time periods were really long. And so you could
5 have a, you could have a, a proceeding that would
6 stretch out so long that by the time you actually
7 completed it and collected the information, the
8 time for preparing the report was over, the time
9 to conduct analysis was over.

10 So it was an attempt to, as I said, to
11 provide -- if you look at the, the language on the
12 complaint process that's provided in the Warren-
13 Alquist Act sections, the, the new language from
14 1389, the intent clearly was to have a, a fairly
15 quick resolution. The existing regulations didn't
16 allow that. What I have done is to shorten the
17 timeframe in the existing regulations, not as
18 short as 1389 would have, but I think in a way
19 that's defensible and would not raise any kinds of
20 due process concerns for notice.

21 MR. HARRIS: A question, then. Are you
22 intending -- this section provides a -- would
23 apply to all complaints.

24 STAFF COUNSEL HOLMES: Yes.

25 MR. HARRIS: Not just data collection --

1 STAFF COUNSEL HOLMES: Right.

2 MR. HARRIS: -- complaints.

3 STAFF COUNSEL HOLMES: Right.

4 MR. HARRIS: So when you talk about
5 providing contacts whether the state, the shorter
6 deadlines --

7 STAFF COUNSEL HOLMES: Well, siting has
8 its own complaint section now, as there, there was
9 a rulemaking, I believe it was last year, it's at
10 the end of those sections. It's not in this
11 package, but if you went and looked up at the end
12 of the 1231, et seq, there's a, there's a section
13 that's specifically on complaints for siting
14 process.

15 MR. HARRIS: Okay. So this is the
16 complaint process for data collection --

17 STAFF COUNSEL HOLMES: It's the
18 complaint process for -- it's not just data
19 collection, it's anything else we have, we have
20 jurisdiction over when we're, we want to see
21 whether somebody has complied with a statute or a
22 regulation.

23 Did that answer whosever question it
24 was? I can't even remember now.

25 MR. TOOKER: Jeff's.

1 STAFF COUNSEL HOLMES: Jeff's. Does
2 that, does that take care of complaint and
3 investigation?

4 MS. KELLANI: On page six, is that still
5 one section, section -- oh, I'm sorry, 1235, or
6 12, one, two, three, four, with a five underlined?
7 I'm not sure if it's proposed --

8 STAFF COUNSEL HOLMES: Right. There is,
9 there is a section on, on proposed decision.
10 That's still in existence. What I was trying to
11 make clear here is that we don't have to have a
12 proposed decision. For example, if the Commission
13 itself holds a hearing, they don't need to, under
14 the APA or any other provision of law, they don't
15 have to have a proposed hearing and then hold a
16 second hearing to adopt their final decision. So
17 we didn't, we wanted to make it clear in the
18 regulations that they didn't have to take that
19 extra step.

20 So they can if they choose to, and it
21 might be particularly appropriate if a complaint
22 proceeding is being handled by a committee, and
23 then the committee would prepare a proposed
24 decision and then it goes to the full Commission
25 for consideration, but it doesn't make much sense

1 to have a proposed decision for the full
2 Commission if the full Commission has already
3 heard it once.

4 So did that make any -- did that help?

5 MR. KLATT: That makes sense, but it
6 isn't clear from my reading of --

7 STAFF COUNSEL HOLMES: Okay.

8 MR. KLATT: -- the section that that was
9 the intent.

10 STAFF COUNSEL HOLMES: That's the intent
11 of the changes overall. This section here,
12 Section A, just talks about the timeframe when the
13 matter is heard before an assigned committee, or a
14 hearing officer. If you look at Section 1236,
15 subsection, subsection C, makes it clear that you
16 don't have to have a proposed decision. So you do
17 need to have one where there's a committee or a
18 hearing officer hearing the complaint, and then it
19 goes, the proposed goes to the full Commission for
20 consideration.

21 But when the full Commission, for
22 example, when we get the -- it's not on a point,
23 because it wasn't a complaint proceeding. But,
24 for example, Greg, when we did the confidentiality
25 proceedings last year, we didn't have a Commission

1 hearing, then a proposed decision, and then a
2 final decision on the demand forecast.

3 MS. BAKER: I'm Georgette Baker with
4 SDG&E. And I hear what you're saying, and it
5 makes a lot of sense. But I think the language
6 there needs to be clarified to, to bring that out.

7 STAFF COUNSEL HOLMES: Okay.

8 MS. BAKER: Because in 1235, you do
9 speak to a matter being heard before an assigned
10 committee or a hearing officer. So I, it seems to
11 me that what you're saying does make sense, but
12 again, there is some ambiguity in terms of the
13 language not really bearing out what you're
14 saying.

15 STAFF COUNSEL HOLMES: Okay.

16 MR. BROWN: Are we at 1236.5?

17 STAFF COUNSEL HOLMES: We can be.

18 MR. TOOKER: It's on the screen.

19 MR. BROWN: What, what's the basis for,
20 for, you know, what's the basis for determining
21 relevancy?

22 STAFF COUNSEL HOLMES: I'm sorry?

23 MR. BROWN: Well, what, what this
24 section is basically saying is that if there's a
25 hearing someone can either testify as an

1 intervenor or just provide comments.

2 STAFF COUNSEL HOLMES: Right.

3 MR. BROWN: Without being an intervenor.

4 STAFF COUNSEL HOLMES: Right.

5 MR. BROWN: But essentially, they can be
6 not allowed to speak if it's deemed not relevant?

7 STAFF COUNSEL HOLMES: That's language
8 from the existing section 1235. That's just --

9 MR. BROWN: Okay.

10 STAFF COUNSEL HOLMES: -- moved over
11 because of the reorganization.

12 MR. BROWN: Okay.

13 STAFF COUNSEL HOLMES: So that's
14 actually not a change. I mean, it shows up as a
15 change because it's been moved, but it's existing
16 language. And I, I don't, I can't recall any
17 decision, any proceeding that I've participated in
18 where somebody's been prohibited from offering a
19 comment based on relevancy.

20 MR. BROWN: Okay.

21 STAFF COUNSEL HOLMES: Are there anymore
22 questions or comments on the complaint and
23 investigation process?

24 Then let's move to the fun stuff, data
25 collection, QFER. Should we walk through this

1 section by section, does that -- okay. People
2 would like to do that.

3 Section 1302, Rules of Construction and
4 Definition. Any comments or questions?

5 MS. KELLANI: Wendy Kellani, again, from
6 SDG&E. I just have a general comment about this,
7 that because of the short timeframe that we were
8 under SDG&E was not able to bring some of its
9 experts here, so to the extent that you don't hear
10 comments here, I would hope that it wouldn't
11 indicate that we have no comments, but it just may
12 be that we don't have the people available that
13 were able to make comments.

14 STAFF COUNSEL HOLMES: That's fine.

15 PRESIDING MEMBER PFANNENSTIEL: Excuse
16 me, but you will then provide those comments in
17 writing?

18 MS. KELLANI: Yes.

19 PRESIDING MEMBER PFANNENSTIEL: Okay.

20 MS. TRELEVEN: I'm Kathy Treleven from
21 PG&E, and I'd like to echo Wendy's comments. We
22 will get what we can in writing to you by the
23 eighth, but if, if a two week extension was at all
24 possible we'd really appreciate it. I'm not sure
25 I will get all the experts focused on this by May

1 8th, and I can get the folks that have already
2 produced reports, or produced similar reports to
3 comment. But there are a lot of, of changes here.

4 STAFF COUNSEL HOLMES: Yeah, there are.
5 There are.

6 MS. TRELEVEN: So --

7 STAFF COUNSEL HOLMES: And I, and I'm
8 hoping that before this workshop is over we can
9 talk about, we can talk about schedule, what
10 people want to see in terms of schedule so the
11 Committee has a, has a sense of what people are
12 looking for.

13 Two, you're asking for two weeks, and I
14 -- did you ask for the same?

15 MS. KELLANI: Yes, an extension. I
16 didn't have a specific timeframe.

17 STAFF COUNSEL HOLMES: Okay.

18 MS. KELLANI: But it sounds good.

19 MR. TOOKER: Same company.

20 STAFF COUNSEL HOLMES: No she's with
21 SDG&E.

22 Yes.

23 MR. McLAUGHLIN: I'm Bruce McLaughlin,
24 CMUA. I guess this is the time to echo -- echo,
25 and we would be asking for more than just a two

1 week extension.

2 You heard it here first, but one thing
3 the CPUC does well is they have a lot of
4 workshops, a lot of participants able to get in
5 and discuss things. Sometimes it takes too long.
6 But here, we've got such a major substantive
7 change, and also many issues, brand-new
8 legislation, some things dealing precisely and
9 only with publicly owned utilities, I think it's
10 really, really important that we have a
11 stakeholder process where everybody can get
12 involved, talk things out in an informal
13 environment, really, really important.

14 Thank you.

15 STAFF COUNSEL HOLMES: Section 1302,
16 questions or comments? Andy.

17 MR. BROWN: Would it be easier to
18 provide detailed comments in writing? Like in, in
19 -- there's a reference to WSCC, it should be WECC.

20 STAFF COUNSEL HOLMES: Right.

21 MR. BROWN: Or you could just stop the
22 sentence after control.

23 STAFF COUNSEL HOLMES: If, if you, if
24 you believe that your comments are more than just
25 clarifying, then I think we ought to hear them

1 here.

2 MR. BROWN: Okay. Well --

3 STAFF COUNSEL HOLMES: And then we can
4 have the people, you know, and maybe the staff
5 people can say oh, fine, that's no problem, but
6 maybe they'll say well, wait a minute, we need to
7 talk about that in a little bit more detail, so --

8 MR. BROWN: The, the control area issue
9 besides the reference to WSCC, you know, now being
10 WECC, there's a whole issue about what EROS will
11 do. And so I don't know if you want to anticipate
12 that, or wait until it happens. And, you know,
13 off the top of my head I don't know what control
14 area, as a defined term, is used for.

15 The other just general, I don't know,
16 it's sort of a mechanical comment about defining
17 terms, is whether or not you want to capitalize
18 all the words of the defined terms. Sometimes
19 they are and sometimes they aren't. When you look
20 at some of the text, there's instances where
21 they're not capitalized at all, so you don't
22 know --

23 STAFF COUNSEL HOLMES: Right. They were
24 adopted all at different times --

25 MR. BROWN: Okay.

1 STAFF COUNSEL HOLMES: -- which is why
2 -- I mean, I could go through and do clean-up,
3 that's a good point. I actually was, was -- had
4 not focused as much on, on this until we were done
5 with figuring out which definitions were in and
6 were out, and what they said.

7 MR. BROWN: Yes.

8 STAFF COUNSEL HOLMES: And I was
9 planning to do clean-up then. But thank you for,
10 for reminding me.

11 MR. BROWN: Yeah.

12 STAFF COUNSEL HOLMES: They also
13 initially weren't numbered, either, so.

14 MR. BROWN: Well, that -- the numbering
15 helped a lot. On six and customer, and this gets
16 down to what you tried to do with the definitions
17 of electric utility, LDC and ESP, you got rid of
18 electric retailers. And in my mind, add some
19 distinctions that were clearer than where we ended
20 up, I think. But again, it's one of those things
21 where I haven't quite had time to unravel it. I
22 was thinking of it in terms of a Venn diagram and
23 what it's supposed to do.

24 STAFF COUNSEL HOLMES: We had one on
25 our, on our board when we were drafting this.

1 MR. BROWN: Yeah. When you look at what
2 ESP, are they, you know, falling under multiple
3 definitions where you intended just to have a
4 single label. And so one, one -- so perhaps a
5 solution is there's other places in the code where
6 these terms get defined, too, and continue to
7 point, point the road. And one example might be,
8 you know, there's the code sections relative to
9 RPS, so ESP is defined there.

10 STAFF COUNSEL HOLMES: Right.

11 MR. BROWN: But I don't know, I, I'm
12 assuming you wanted to capture other entities, but
13 the distinct -- there's a big distinction, and it
14 shows up later on when you're talking about, you
15 know, providing information about rate schedules.
16 That doesn't work for ESPs. And some of the
17 resource plan issues. Again, it doesn't make
18 sense to look for this information from ESPs
19 because they're business models.

20 STAFF COUNSEL HOLMES: What would be
21 really helpful as we go through the specific
22 reporting requirements, if you would point out
23 those problems. We struggled a lot with the
24 definitions. Some definitions have been in and
25 out multiple times, as, as we tried to work

1 through this. So as we go through the, the
2 sections that actually impose reporting
3 requirements when the definitions are creating a
4 problem, point that out to us so that we can
5 figure out whether we should address it within
6 that particular regulation that imposes the
7 reporting requirement, or whether we should start
8 over again with the definitions up front.

9 MR. BROWN: Yeah. Well --

10 STAFF COUNSEL HOLMES: It's, because
11 it's not clear to us which --

12 MR. BROWN: If I just look at six, which
13 is a definition of the word customer --

14 STAFF COUNSEL HOLMES: Uh-huh.

15 MR. BROWN: -- well, an ESP has a
16 customer that's the same as the buyers, and so I
17 don't know, you know, 20 is the revenue data
18 versus a failed attempt. There's two sets of
19 accounts there.

20 STAFF COUNSEL HOLMES: Right.

21 MR. BROWN: And so, you know, this is
22 something else. I just marked it because I don't
23 know where the term customers is, and if it could
24 potentially lead to confusion or not.

25 STAFF COUNSEL HOLMES: Right. Well, we,

1 as I said, we tried to do word searches throughout
2 the document to make sure that, that the
3 definitions were not causing problems within the
4 specific reporting requirements. But if we've
5 missed something, we really want to hear, we
6 really want to hear it from the people that are
7 going to be affected by it.

8 MS. SHERIFF: Caryn, this is Nora
9 Sheriff for CAC and EPAC. And we've run into a
10 very similar problem that Andy was just talking
11 about, but from a cogeneration or customer
12 generation point of view. We look at the load
13 serving entity definition and it seems to capture
14 generation operation. And that doesn't seem to
15 make sense when you're going through and you're
16 talking about electric rates and megawatts of peak
17 demand, so on and so forth, when you're just
18 serving someone over the fence.

19 STAFF COUNSEL HOLMES: You're looking at
20 which number is that, 16?

21 MS. SHERIFF: Number 16, the, the load
22 serving entity definition.

23 STAFF COUNSEL HOLMES: Right. And your
24 concern is -- okay. Again, which reporting
25 requirement -- when we go, when we get to the

1 individual reporting requirements where this
2 definition creates a problem, it would be really
3 helpful if you could call it out there.

4 MS. SHERIFF: Yeah. And I'll, to the
5 extent that I can today, I will, but I haven't had
6 as much time with the report as I would have
7 liked.

8 STAFF COUNSEL HOLMES: I understand.

9 MS. SHERIFF: Whatever I don't say today
10 will be reflected in our comments, which hopefully
11 will be due later than May 8th.

12 STAFF COUNSEL HOLMES: Right.

13 MR. TOOKER: Let me check. We just had
14 somebody new come on the line. Could you please
15 identify yourself and who you represent?

16 STAFF COUNSEL HOLMES: It's possible
17 somebody left.

18 MR. TOOKER: Okay. Proceed.

19 STAFF COUNSEL HOLMES: Andy?

20 MR. BROWN: In 12 and 13, you make a
21 reference to electric retailers.

22 STAFF COUNSEL HOLMES: Right. Good
23 catch. Which we deleted.

24 Greg?

25 MR. KLATT: Thank you, Caryn. I, I was

1 looking at the definition of electric rates, 12,
2 and I think that the only place that electrical
3 rate information is asked for is in Section 1306
4 -- yeah, having to do with electric utilities,
5 1306(a)(1), or it's 1306(2) is the only place, I
6 believe, that electrical rate information is asked
7 for -- oh, and in (1), (a)(1). And that is
8 limited, that section's applicability is limited
9 to electric utilities, so you may be able to affix
10 a definition of electric rate in 1302(12) by just
11 replacing electric retailer with electric utility.

12 STAFF COUNSEL HOLMES: Right.

13 MR. KLATT: Now, one thing I thought
14 about that this term, electric rate, could
15 possibly apply to a community choice aggregator,
16 depending upon how their rate structure is set up.
17 And so this dovetails with what Andy was saying
18 earlier about the definitions about load-serving
19 entity. We may need, and this is something we'll
20 have to give more thought about, but we, it may
21 make sense to have separate definitions in 1302,
22 or references in other places in the regulations
23 for what is a definition for ESP and community
24 choice aggregator.

25 STAFF COUNSEL HOLMES: We originally had

1 them separated out, and we, we were hoping we
2 could try to keep as few definitions as possible
3 and then deal with exceptions or unusual
4 circumstances in, in the regulation that imposes
5 the specific reporting requirement. That was out
6 intent. But if it doesn't work, again, we want to
7 -- Andy's saying it doesn't work.

8 MR. KLATT: Yeah. You run into
9 difficulties in the aggregation --

10 STAFF COUNSEL HOLMES: Okay.

11 MR. KLATT: -- because they're just set
12 up differently. A CCA that's going to be up to
13 one little area, ESP has several in the state, and
14 so it doesn't --

15 STAFF COUNSEL HOLMES: Okay.

16 MR. KLATT: I mean, I can see what, see
17 what you were trying to do, and I appreciate that
18 because, you know, it's always better if you can
19 have less terminology and you can work to
20 streamline, but we, maybe we have to take a look
21 at that.

22 STAFF COUNSEL HOLMES: Okay.

23 MR. TOOKER: If somebody just came on
24 the line in the last few minutes, would you
25 identify yourself and who you represent?

1 MR. MAHANDRA: I'm sorry, I disconnected
2 myself. This is Dalip Mahandra, with SMUD.

3 MR. TOOKER: SMUD. Thank you.
4 Caryn.

5 STAFF COUNSEL HOLMES: Anymore -- Jeff.

6 MR. HARRIS: Caryn, I just was going to
7 point out that your definition of LNG and LNG
8 terminal talks about importation in foreign
9 countries. And there is some importation from
10 Alaska, so I don't know how you're going to deal
11 with that.

12 STAFF COUNSEL HOLMES: Okay. Good.

13 MR. HARRIS: But the issue comes up
14 because one of my clients has an Alaskan contract.

15 STAFF COUNSEL HOLMES: Okay.

16 MR. BROWN: Seventeen electric utility,
17 when you're looking at an entity authorized to
18 engage in generating, well, that to me means any
19 generator. Transmitting and, and distributing, I
20 don't know if that attaches to an ESP, because
21 transmitting, are you talking about, you know, who
22 owns the wires, or are you talking about somebody
23 who has acquired wholesale power and then, you
24 know, has it transactually delivered to a
25 customer, and therefore has it transmitted?

1 STAFF COUNSEL HOLMES: That definition
2 actually comes from the Warren-Alquist Act.
3 That's the definition in the beginning of the Act
4 that defines what an electric utility is, so we'd
5 have a real consistency problem if we were to
6 change it. Maybe what we need to do is to fuss
7 with the definitions so that they're clear in
8 terms of whether we're including ESPs as
9 distribution entities or not, or maybe, again, the
10 way to deal with it is in the specific section
11 imposing our reporting requirement. Make sure
12 that we're asking for the right stuff from the
13 right people.

14 Mike?

15 MR. JASKE: Mike Jaske --

16 STAFF COUNSEL HOLMES: Do you want to
17 come up front, Mike?

18 MR. JASKE: -- CEC -- no, I don't want
19 to.

20 I think we should be pointing out that
21 it was the staff's intent to shift to load-serving
22 entity as the general term for anyone providing or
23 selling electricity to another entity.

24 MS. SHERIFF: Could someone give Mike a
25 microphone? It's hard to hear him on the phone.

1 MR. JASKE: I'll try to speak up.

2 MS. SHERIFF: Thank you.

3 MR. JASKE: So not only does 16 need to
4 encompass the traditional utility, whether PUC
5 regulated or public, but ESPs, the CCAs, WAPA
6 direct sales to federally entitled end users for
7 whatever statutory purposes and reasons those
8 things exist, et cetera. So we very intentionally
9 should do while trying to encompass all of those
10 entities in the definition of electric utility
11 primarily through the word "distributing" over to
12 a certain entity and then in the individual
13 regulations where it wasn't appropriate for all
14 those serving entities to do the same thing like
15 1306, we were asking for different classes of
16 certain entities to file different kinds of
17 things.

18 So 1306(A) asked for UDCs to provide
19 rates because all UDCs have rates in the procurer
20 sense of the word. 1306(B) asks for other kinds
21 of load-serving entities provide, in effect, some
22 sort of average to the, the -- perhaps even
23 individual transactions that are all unique, but
24 clumps them together in some sort of broad class
25 which is equivalent to what a federal already has.

1 So I think that's the general construct
2 that we were pushing toward, and if we have -- and
3 we'd like to keep that construct if it's possible,
4 and if we fail, you know, in individual places to
5 execute it as well as we ought to, I hope you can
6 help us out, but stay within that framework.

7 MR. TOOKER: I failed to recognize Mike
8 Jaske earlier as part of our team. He's obviously
9 been an advisor of great import, and gone -- waxed
10 on for quite a bit of time in our meetings about
11 definitions and strategies, and I do appreciate
12 that.

13 STAFF COUNSEL HOLMES: Yes?

14 MR. McLAUGHLIN: So in Andy's Venn
15 Diagram the LSE is the big circle, the electric
16 utility the smaller circle, and these other things
17 are smaller circles within the big LSE which
18 encompasses just about anybody in the energy
19 industry. Is that true?

20 MR. JASKE: Not, not quite, Bruce. I
21 think actually an electric utility could be
22 construed as a larger utility, because it includes
23 the transmission owner/operator and generators.
24 Those are the entity and the common sense uses
25 the word as just that. People who serve load in

1 some fashion, but clearly that's not being a
2 generator.

3 STAFF COUNSEL HOLMES: More comments on
4 definitions?

5 MR. KERNER: Can I follow up on that,
6 Mike. Doug Kerner, for IEP. I thought that was
7 the right question, and then you threw a fast ball
8 right by me.

9 You say it's, it's not, not -- an LSE
10 would capture everybody but not a mere generator.
11 But that, if the generator is moving power
12 anywhere, or consuming it, even, isn't it an LSE?
13 So when will the generator not be an LSE?

14 MR. JASKE: From my perspective, I do
15 not consider -- let's take a classic example of --
16 let's call it a wholesale generator. They're
17 strictly serving the wholesale market, they're
18 generating, they're pumping it into the
19 transmission system, and 60 kV or whatever, you
20 know, and they're not, that's their total
21 function. I don't consider them to be a load-
22 serving entity.

23 MR. KERNER: Okay. It's got, it's got
24 to be an end-use element in there, a, a retail
25 like aspect to it.

1 MR. JASKE: Except that retail so often
2 kind of -- the necessity of transaction and sale,
3 and to some extent they're, they're just entities
4 who provide electricity who don't necessarily do a
5 transaction sale.

6 MR. KERNER: I get it. All right.

7 STAFF COUNSEL HOLMES: More comments on
8 the definitions? Have we done enough with that
9 for now?

10 Let's move on, then, to Section 1303,
11 which begins on page 14, the subsection (a).
12 Again, this is an example of where we tried to
13 identify people by -- identify the, to improve the
14 identification of who has to provide what reports.
15 I think that the only significant change here has
16 to do with adding the 1308(c) reports under the
17 accuracy of customer classification coding on page
18 19.

19 Again, I don't, and I'll mention it one
20 more time, we deleted two types of delegation that
21 have never been used, and no one's ever taken
22 advantage of them. We left the third, which I
23 think would -- more likely to be useful. So if
24 anyone has a problem with that I guess we need to
25 hear about it.

1 Any comments?

2 MR. KLATT: I don't have any reason to
3 believe that, that ESP delegation to UDC will be
4 used in the future. I don't have any reason to
5 know that it will not be used. And I'm wondering
6 if it's, if it's necessary to put it on the regs
7 or if we just leave it in there, since it's not
8 quite fitting in there.

9 STAFF COUNSEL HOLMES: Well, we ended up
10 with definitional problems when we left it in. We
11 initially had it in. Again, the same question of
12 who's in and who's out, is my recollection. I
13 mean, I could -- we'd end up having to modify the
14 language again, and we can't, we can't just leave
15 it in, in other words. So, I mean, if, if
16 somebody feels that this is a useful form of
17 delegation and it's something that, that people
18 are going to use, and it's not covered under just
19 the general language in (g), because that still is
20 remaining, let us know.

21 MR. TOOKER: Did we just have somebody
22 come on the line? If so, identify yourself.

23 MR. ROCHMAN: This is Michael Rochman
24 from SPRRR.

25 MR. TOOKER: From where?

1 MR. ROCHMAN: School Project for Utility
2 Rate Reduction.

3 MR. TOOKER: Thank you.

4 MR. ROCHMAN: You're welcome.

5 MR. BROWN: The leftover delegation
6 provision is essentially a generic one?

7 STAFF COUNSEL HOLMES: Uh-huh.

8 MR. BROWN: Where, so to the extent --
9 was your thinking to the extent these other ones
10 might come about they will be covered by this
11 generic one?

12 STAFF COUNSEL HOLMES: Yes.

13 Any concerns on 1303, or should we move
14 on to 1304? Okay.

15 1304. The first change --

16 MR. BROWN: I do have one.

17 STAFF COUNSEL HOLMES: I'm sorry. Okay.

18 MR. BROWN: IN 1303 --

19 MR. TOOKER: What page?

20 MR. BROWN: There's a notion here that
21 the, that there is some, some issue with the
22 classifications?

23 STAFF COUNSEL HOLMES: Right.

24 MR. BROWN: So the utility would then
25 make the decision on it?

1 STAFF COUNSEL HOLMES: Right.

2 MR. BROWN: And I don't know if it's
3 appropriate to have the utilities conduct audits
4 of customer classification.

5 STAFF COUNSEL HOLMES: My understanding
6 is, is that it is the utilities that actually know
7 what the classification is. And that's who,
8 that's --

9 MR. BROWN: As opposed from, say, the
10 customer?

11 STAFF COUNSEL HOLMES: As opposed, as
12 opposed to the LSE. That's, I mean, that's what
13 we hear, is we don't know what they do, we just
14 sell them electricity. It's the utility that
15 knows how they're classified, and Lynn can add to
16 that, I know.

17 MS. MARSHALL: I think currently the
18 ESPs are getting their rate classifications from
19 the utilities.

20 MR. BROWN: Okay. So the way this is,
21 the way I believe this section works out is that
22 the ESP provides information that I've just been
23 told they get from the utility, and there's a
24 problem with that classification so you go to the
25 utility, and it seems to me that, you know, maybe

1 the issue is more between the customer and the
2 utility about what the proper classification is.
3 Which happens on occasion.

4 STAFF COUNSEL HOLMES: We don't collect
5 the information from the customers. This is
6 existing language. All we've done here is change,
7 try to, again, the, the concept is the same, all
8 we're trying to do with the changes to this
9 section is to make the names, the classification
10 of the reporting entities consistent with the
11 changes that we've made to the definitions in
12 1302. So it's not our anticipation that things
13 would change under this section.

14 MR. BROWN: Right. And I was just
15 looking at the section when I was going through
16 all these things to understand how they connected,
17 and this one didn't make sense to me in terms of
18 you're saying there's an issue with the
19 classification, and then rather than going back to
20 the ESP you're then having the utility audit the
21 ESP for these classifications.

22 STAFF COUNSEL HOLMES: No. The utility,
23 because the utilities provide the distribution
24 services to the customer, the utility is the one
25 who knows what the end use is of the customer.

1 MR. BROWN: Okay.

2 STAFF COUNSEL HOLMES: But the ESP tells
3 us they don't know.

4 MR. BROWN: I'll, I'll explain my point
5 better in written comments.

6 STAFF COUNSEL HOLMES: Okay.

7 MS. CHAMBERLAIN: I had the same
8 clarification. It looked like we were having
9 utility --

10 MR. TOOKER: Would you identify
11 yourself.

12 MS. CHAMBERLAIN: Jennifer Chamberlain,
13 Strategic Energy. I apologize. Yeah, I, I agree
14 there's some confusion, but I think it really did
15 look like the utility audits the ESPs, would be my
16 question, which frankly, we're --

17 STAFF COUNSEL HOLMES: All we're looking
18 for is the correct classification. And if the ESP
19 can't get it for us, then we need it from the
20 utility, but we do have to have it. So that's --

21 MS. CHAMBERLAIN: But then you get --
22 and the utility caught it and the ESP audits
23 the --

24 STAFF COUNSEL HOLMES: Okay. Michael,
25 did you want to say something?

1 MR. JASKE: I'd like to -- I believe
2 that this doesn't do what the ESP representative
3 was suggesting. It's, the, the assignment of
4 customer classification codes is by the electric
5 utility or the gas utility. In the case of
6 electricity, the electric utility is going to give
7 that assignment to each ESP or other load-serving
8 entities so that they can use that in submitting
9 the assumption data filings to the Commission
10 staff.

11 If, when we see that, we think that
12 there are difficulties, well then we go to the UDC
13 and complain that the UDC needs to do a better
14 job, not that the load-serving entity or the ESP
15 needs to do a better job. And doing a better job
16 is a function within the staffing of the, of the
17 UDC. So it just so happens that when the data
18 comes to us through an ESP, it tends to be more
19 visible, perhaps, than with all the other utility
20 data in the old days, we might see a problem more
21 readily and seek a solution from the same place.
22 It's always been a fact that the UDC
23 classification chart.

24 STAFF COUNSEL HOLMES: Greg?

25 MR. KLATT: Thank you. Greg Klatt,

1 Alliance for Retail Energy Markets. That was my
2 understanding, was that if there's a problem with
3 the customer classification codes that's because
4 somewhere along the line a number got transposed,
5 or it was simply the wrong classification codes
6 given to the ESP, so it's not really necessarily
7 the ESP's fault. And you're not really looking to
8 place blame.

9 STAFF COUNSEL HOLMES: That's correct.

10 MR. KLATT: You just want to get the
11 correct information.

12 STAFF COUNSEL HOLMES: Right.

13 MR. KLATT: So the idea is to go to the
14 source of the classification code in the first
15 place, which would be the UDC.

16 STAFF COUNSEL HOLMES: Right.

17 MR. KLATT: And say hey, there's this
18 problem, what's the correct number.

19 STAFF COUNSEL HOLMES: Right. And
20 again, this is, this is language that has been in
21 existence for a number of years. It's just that
22 the changes to this section are designed to
23 reflect the, the changes to the definitions that
24 we've used. So we're trying to pick up the same
25 people and accomplish the same objective of

1 getting the right classification.

2 MR. KLATT: And there would be no
3 negative consequences for an ESP or for even the
4 utility for providing a mistaken code or wrong
5 code. Is that correct?

6 STAFF COUNSEL HOLMES: Well, if, if any
7 entity fails to comply with the reporting
8 requirements in the sections, that, that was the
9 -- we have this authority to institute a
10 proceeding. To the best of my knowledge we've
11 never done that. We much prefer to work it out,
12 particularly with this stuff. We just want the
13 classification.

14 MR. HARRIS: Caryn, why don't you just
15 cut out the, the next to the last line and make it
16 just to verify, instead of the -- to conduct an
17 audit --

18 STAFF COUNSEL HOLMES: That's a
19 possibility. And as I said, it is existing
20 language, but if it's causing people lots of --

21 MR. BROWN: Well, the distinction here
22 is that you have one entity submitting data that
23 apparently came from the utility. And you're
24 giving the utility the ability to audit, under
25 this reg, the entity that submitted the data.

1 STAFF COUNSEL HOLMES: But that's
2 already, that's already true. I mean, that's not
3 a change.

4 MR. BROWN: But if we're fixing the
5 regs --

6 STAFF COUNSEL HOLMES: Okay, I
7 understand what you're saying. I just, I want to,
8 I want to make it, I want to make it clear that
9 this is, that this process already exists. If you
10 guys think that it needs to be deleted, that's
11 fine, you can make that proposal. But what we're
12 talking about right now is not a function of the
13 staff proposal.

14 MR. BROWN: No, I, I understand.

15 STAFF COUNSEL HOLMES: 1304? The first
16 substantive change, really, is on Page 22. We're
17 still asking for annual data, but we're -- excuse
18 me, data on an annual basis, but we're asking for
19 monthly data. So if people have comments about
20 that, this would be the time to make those
21 comments.

22 MS. SHERIFF: Is that a new requirement
23 that you're asking people to cull out the --

24 MR. TOOKER: Who is speaking, please?
25 Can you --

1 MS. SHERIFF: This is Nora Sheriff. Is
2 it a new requirement that you're asking people to
3 cull out the fuel use for electricity and steam
4 generation?

5 STAFF COUNSEL HOLMES: Actually, you're
6 right. That is an additional change, yes.

7 MS. TRELEVEN: Caryn, can you describe
8 the --

9 MR. TOOKER: We're having a hard time
10 picking up, so go to the mic if you can, please.

11 MS. TRELEVEN: Caryn, Kathy Treleven,
12 again. Can you explain the, the desire to have
13 monthly information, what, what the additional
14 information would be used for?

15 STAFF COUNSEL HOLMES: I need to turn to
16 the staff for that. Al.

17 MR. ALVARADO: Al Alvarado, Energy
18 Commission staff.

19 I think the intent -- first of all,
20 we're only adding this requirement to the
21 generators between one and ten megawatts. And --

22 MS. TRELEVEN: Could you speak up,
23 please?

24 MR. ALVARADO: Sure. We're requesting
25 this information, the monthly information,

1 additional monthly information for just the
2 generators between the size of one megawatt and
3 ten megawatts. The other subsections, (b) and
4 (c), already request the monthly information for
5 the generators that are larger. So the intent
6 here is just to have a, a better understanding of
7 the monthly generation and fuel use patterns for
8 these smaller generators. And it's just to be
9 consistent with all the other generators we're
10 already asking the monthly information for.

11 STAFF COUNSEL HOLMES: Does that answer
12 your question, Nora?

13 MS. SHERIFF: I think so. I think it'll
14 be clearer when I get the transcript and can see
15 all the words.

16 STAFF COUNSEL HOLMES: Okay. And then
17 again, as Kathy pointed out, there -- for both the
18 ten to 50s and the 50s and above, we've asked
19 folks to call out the, the amount of fuel use for
20 electricity and steam and thermal energy
21 production, for the cogenerators.

22 MS. SHERIFF: And that's new, right?

23 STAFF COUNSEL HOLMES: That is new, yes.
24 We're interested in tracking those cogeneration
25 plants a little bit more closely.

1 Andy?

2 MR. BROWN: In 2(C)(8), which is at the
3 top of Page 24, monthly fuel cost by fuel type of
4 each electric generator. What if, if the
5 generator itself doesn't secure the fuel because
6 it's a tolling arrangement? Do they just say
7 that?

8 STAFF COUNSEL HOLMES: Al? Is that
9 sufficient, or are you going to --

10 MR. ALVARADO: I, I think that would be
11 appropriate, yes.

12 MS. LYNCH: And -- Mary Lynch, with
13 Constellation. On the content, if it's a gas-
14 fired plant, is the content just the pipeline
15 quality reports?

16 STAFF COUNSEL HOLMES: I asked this
17 question, and I can't remember the answer I got.

18 MR. TOOKER: Al.

19 STAFF COUNSEL HOLMES: Do you know the
20 answer? I remember that came up at some point.

21 MR. TOOKER: Perhaps Jim McKinney can
22 answer that.

23 STAFF COUNSEL HOLMES: That's an answer
24 I got from our Air Quality staff. That's from
25 Joe.

1 MR. LAYTON: Right.

2 STAFF COUNSEL HOLMES: So that is
3 correct?

4 MR. LAYTON: Right.

5 STAFF COUNSEL HOLMES: Okay.

6 MS. SHERIFF: Okay. So with respect to
7 any other fuel type, coal, oil, whatever, you,
8 you're looking for more explicit --

9 MR. LAYTON: Yes.

10 MS. SHERIFF: Okay.

11 STAFF COUNSEL HOLMES: Shall we move on
12 to the environmental information? Yes.

13 MR. HARRIS: How much of the information
14 is treated as confidential automatically, versus
15 people asking for confidential treatment of things
16 like fuel cost?

17 STAFF COUNSEL HOLMES: We have not
18 proposed changing any of the automatically
19 confidential categories. We were trying to stick
20 with what we had, and that includes electric power
21 plant specific hourly generation data. These, I,
22 I think actually you can find these in, in your
23 package. But fuel cost data, commodity price --
24 what was your specific question, Jeff? What were
25 you --

1 MR. HARRIS: The specific question was
2 how much of this stuff is treated as automatically
3 protected stuff, and I don't think you can answer
4 that right now probably, it sounds like, Caryn.

5 STAFF COUNSEL HOLMES: Well, the, the,
6 the plant specific generation, hourly generation
7 is -- monthly it doesn't, is not addressed in the
8 automatically confidential.

9 MR. HARRIS: Well, I was thinking about
10 gas --

11 REPORTER: You're really going to have
12 to either holler or go to the mic, because I'm
13 just not picking up here.

14 STAFF COUNSEL HOLMES: We know you can
15 holler.

16 MR. HARRIS: The price paid for natural
17 gas, I'm looking at the top of Page 23, Section
18 sub (4). Would that be confidential
19 automatically?

20 STAFF COUNSEL HOLMES: It says fuel, it
21 says under the automatically confidential category
22 in that section includes fuel cost data provided
23 for individual electric generators under Section
24 1304. I think that answers your question.

25 MS. SHERIFF: And does that automatic

1 confidentiality also go to the monthly fuel use by
2 fuel type for the culling out of the useful
3 thermal energy production?

4 STAFF COUNSEL HOLMES: I don't believe
5 it does.

6 MS. SHERIFF: Why not?

7 STAFF COUNSEL HOLMES: Well, simply
8 because we didn't, as I said, we did not change
9 any of the automatically confidential categories.
10 Even information that's not automatically
11 confidential can be treated confidential if a
12 person files an application for confidentiality,
13 and if it's granted the first time, unless
14 something changes, there is a process for just
15 saying this, this type of information has already
16 been deemed confidential in the past.

17 MS. SHERIFF: But this, since this is a
18 new request, could you expand the automatic
19 confidentiality to cover that?

20 STAFF COUNSEL HOLMES: That's actually,
21 Nora, that's actually an interesting legal
22 question, because there's language in 1389 about
23 existing categories of confidential -- categories
24 of confidential information as they existed at the
25 time that the statute was, was enacted. And so we

1 were hoping to avoid having to address whether or
2 not we can be doing that under the existing
3 language of the statute. I'm not saying that we
4 can't, but it does raise an issue.

5 MS. SHERIFF: Okay.

6 STAFF COUNSEL HOLMES: That I have some
7 concerns about. I mean, if you look at the
8 section 25(3)(2)(2), I think you'll find the
9 language that I'm referring to and, and you may
10 understand why we're a little bit concerned about
11 changing those categories. And again, even for
12 information that doesn't fall under those
13 categories, there's, there's still an application
14 process that entities can use.

15 So if we can handle it that way, from my
16 perspective it would be simpler.

17 MS. SHERIFF: Okay.

18 STAFF COUNSEL HOLMES: Environmental --

19 MS. SHERIFF: In fact, I'm saying okay,
20 we can definitely handle it that way.

21 STAFF COUNSEL HOLMES: no, I understand.
22 But, but as I said, there is a, there is a legal
23 concern about some of the language in the statute
24 there and changing those automatically
25 confidential categories.

1 MS. SHERIFF: I, I'll look at that.

2 STAFF COUNSEL HOLMES: Okay. Thank you.

3 Do we want to move on to the
4 environmental data now? And -- oh, Jim's already
5 ready.

6 The first set of information relates to
7 emissions, and do you want to summarize that, or
8 do you want me to do that? And we're asking for
9 emission factors for facilities that are one
10 megawatt or larger, we're asking for an inventory
11 of pollution control devices. I think that's it
12 for emissions.

13 Yes.

14 MS. McBRIDE: Hi. This is Barbara
15 McBride with Calpine. Sorry. Hi, this is Barbara
16 McBride with Calpine.

17 We don't have a problem with submitting
18 the emission factors, but the issue, the second
19 sentence I think in the, in (A)(1) here, basically
20 says that the emission factors either have to be
21 based on source test data, a permit limit, or a
22 published emission factor. When we do our annual
23 emissions a lot of times we use best engineering
24 judgment, we use a similar plant, you know, that's
25 used those emission factors. We propose that you

1 might add something like the best engineering
2 judgment to that section.

3 STAFF COUNSEL HOLMES: Matt, that's your
4 section.

5 MR. LAYTON: Yes. This is Matt Layton,
6 the Air Quality Unit. That'd be fine.

7 STAFF COUNSEL HOLMES: We're going to
8 have a, I mean -- to the extent that that's a,
9 that that's a well-defined term, that's not a
10 problem. But if it's a term that means lots of
11 different things to different people, OAL will say
12 no, you can't do it because it's too vague. So --

13 MS. McBRIDE: Or the other option is
14 just to remove that and say, hey, let's go with
15 the factors are.

16 STAFF COUNSEL HOLMES: And what it's
17 based on. We, I think we want, if there is a
18 source test, we want it. So --

19 MS. McBRIDE: Isn't that what we do
20 based on emission factors, if we have the
21 source --

22 STAFF COUNSEL HOLMES: Right.

23 MS. McBRIDE: But we might have a
24 similar plant, you know, right next door that has
25 a source test and for some reason we didn't, we

1 don't require the source test on the plant?

2 STAFF COUNSEL HOLMES: Right.

3 MS. McBRIDE: So, you know, we want the
4 option of using the exact same turbine in the
5 plant, we might want to use that factor.

6 STAFF COUNSEL HOLMES: We could say, we
7 could say most recent source test or permitted
8 limit, if available.

9 MS. McBRIDE: Yes.

10 STAFF COUNSEL HOLMES: Is -- yeah. Does
11 that --

12 MS. McBRIDE: If it's available covers
13 it, you know. If it's not available, then, okay.

14 STAFF COUNSEL HOLMES: And then if it's
15 on something else, tell us what it was. That's
16 fine. I think that will work.

17 Okay. Any other comments on air
18 emissions? Well, that was easy -- well, almost
19 easy.

20 MS. TRELEVEN: Actually, I wanted to
21 give a general comment on 1304, so should I --

22 STAFF COUNSEL HOLMES: Sure, go ahead.

23 MS. TRELEVEN: -- or, actually two.
24 Should I wait, or --

25 STAFF COUNSEL HOLMES: Go ahead.

1 MS. TRELEVEN: I think the first one
2 I'll have a little bit more specific to tell you
3 later, but one of our environmental folks, when
4 they took a look at the reg, said yes, this looks
5 a lot like -- or the proposed regs in the general
6 environmental area, said this looks a lot like the
7 data request that, that we answered in 2005. And
8 does -- pardon me for passing on her grumpiness,
9 but she said, we tracked that data request, it
10 took 800 hours. And so I don't know how much
11 happier she'll be with the change from 1966 to
12 1996.

13 STAFF COUNSEL HOLMES: Hopefully less.

14 MS. TRELEVEN: Hopefully a lot happier.
15 But she also said, and they didn't seem to use it.
16 I, I'd like to hear a little bit about -- I, I can
17 understand the need to understand water, air, a
18 little bit better, but I'd like a little more
19 sense about the next environmental report and what
20 use you would be making of this data.

21 MR. MCKINNEY: Kathy, this is Jim
22 McKinney. I'm the report manager for the
23 electricity environmental performance report.
24 And, and I think the package of information that
25 we got from PG&E was really one of the best, and

1 it was obvious that a lot of work went into it.

2 My question to you is do you have any
3 disaggregation information on the 800 hours? I
4 imagine that most of it was for your hydro system,
5 which is the nation's largest. And I have had
6 discussions with Alan Soneda, who's a manager in
7 your licensing group, about assistance on
8 analyzing that data. We have not had staff
9 resources to analyze all the hydro information
10 that's been submitted thus far.

11 MS. TRELEVEN: I can see if I can get a
12 breakdown for you, and I appreciate that comment.

13 STAFF COUNSEL HOLMES: Well, perhaps we
14 could respond to the question about how it's going
15 to be used, just so that we have that in the
16 record.

17 MR. MCKINNEY: Yeah, they -- let me give
18 a little overview, then, on kind of the intent of
19 the environmental performance report, how it's
20 been used, how we envision it being used.

21 The basis for this report is the
22 original statutory requirement in SB 110, which I
23 think came in 1999. That has since been
24 incorporated into SB 1389, when that was passed.
25 It gets to our understanding the legislative

1 intent of this report series is to track the
2 environmental performance of the system, kind of
3 based on the major threshold under deregulation,
4 but then moving forward as the system expands and
5 becomes more complex.

6 So we do have one of the most diverse,
7 and I think complex resource mixes in the country,
8 if not in the world, and we have five major fuel
9 types. We have over 1,000 power plants. The best
10 information available to us are for those units
11 within our siting jurisdiction. Over time, that's
12 going to become a smaller and smaller part of the
13 fleet. So right now, I think, as reviewing some
14 of the stats, obviously we reviewed or analyzed
15 8,000 megawatts of new combined cycle capacity.
16 That's clearly within our jurisdiction, as are the
17 geothermal units.

18 Everything else, we do not have direct
19 jurisdiction over, so we go to sister agencies, we
20 go to large state and federal datasets to really
21 comb the information as best we can. And I think
22 over time we've done a much better job of taking
23 advantage of the information, but we realized
24 quite early on that there were major shortcomings
25 in the way the other principal regulatory agencies

1 in the state, both at the state and federal level,
2 actually compiled the information. A lot of times
3 it is not a good match for the types of questions
4 and information that we're looking at. That's
5 what drove the staff request for permission to
6 collect data in 2005.

7 And again, I think, as Ms. Treleven
8 said, we recognize that for some generators that
9 was, that was new work. And again, we -- I don't
10 think we've ever said this publicly, but we very
11 much appreciate the effort that the generator
12 community put into that. There were some just
13 excellent submittals there.

14 On a going forward basis, in my
15 professional view I see too many purposes for this
16 report. One is to track areas of policy interest
17 from the IEPR committees over time. And the
18 second is to serve as a status and trends report.
19 If we do not collect trends information on an
20 annual basis and a uniform basis, we're not able,
21 or we are less able to investigate questions as
22 those issues, they ripen over time. And as a
23 couple of examples, I'd put out the issue of water
24 used for power plant cooling. I think when SB 110
25 was passed that was emerging as an issue. It

1 ripened over time, and we now have a new water
2 policy to go with that.

3 Similarly, tracking CO2 emissions. Over
4 time it's become a much greater issue of interest.
5 And I think over time, as well, that we, we know a
6 lot about air emissions. We know something about
7 water use and we know very little about impacts to
8 biological resources in the state.

9 So for the biology section, and we do
10 have more listed species in California than most
11 other states in the country, there really is no
12 uniform dataset available either through Fish and
13 Game or U.S. Fish and Wildlife Service, or BLM, or
14 the other federal land management agencies that
15 would allow us to compile that information. So in
16 our view, our recommendation is to request that of
17 the generators because you know your facilities
18 better, you know the land areas within your pen
19 signs the best. And in our view, this is an
20 additional reporting requirement, but that one is,
21 is reasonable and will help provide us information
22 in an efficient manner.

23 We have been cognizant of the burden on
24 generators, and there's actually a lot of work in
25 this proposed language to really be as precise as

1 possible, and limit the information as greatly as
2 possible. And also, Commissioner Pfannenstiel, to
3 answer your question, truly make sure that we use
4 it. I'm personally somewhat embarrassed, but we
5 just have not had the staff resources to really go
6 through all the hydroelectric information, because
7 there's a lot of good stuff in that.

8 MR. TOOKER: Jim, could you explain why
9 we're proposing to use emission factors going
10 forward, rather than emissions?

11 MR. McKINNEY: Yeah. Our strategy for
12 tracking emissions from the thermal part of the
13 fleet is to ask on a one-time basis for emissions
14 factors from those companies with those types of
15 facilities, and then not ask for them again unless
16 there's a major change that would change our
17 emission factor.

18 With an emission factor we can match
19 generation data and fuel use data and calculate
20 the emissions ourselves. So from our point of
21 view, that's a much easier dataset to manage than
22 to ask for, you know, annual streams of
23 information on a monthly basis, that would be a
24 huge dataset. And frankly, that is what some of
25 the other agencies do already. So our strategy in

1 here was to minimize the reporting requirement and
2 also create some accuracy and uniformity in the
3 dataset.

4 MR. TOOKER: Thank you.

5 MS. McBRIDE: I mean, one thing is our
6 emission factors do change annually, and what
7 about, say for NOx and CO, that we don't have
8 emission factors for because we have continuous
9 emission monitors. And our concern is, is that we
10 want to make sure that we have one set of data out
11 there, you know, to report to everybody. And, you
12 know, we can't have one set of data go to -- being
13 put out for the CEC and another set being put out
14 to the air district. Everybody's got to be
15 consistent, and that's, you know, one of our
16 concerns, too.

17 MR. TOOKER: Question?

18 MR. WALSH: Bill Walsh, Southern
19 California Edison.

20 MR. TOOKER: Could you go to the mic,
21 please.

22 MR. WALSH: It's actually kind of the
23 same concern our environmental people had. They
24 wanted, they were wondering if there was ever any
25 discussion to sort of mirror the other data

1 collection requirements from the other agencies,
2 the primary agencies involved with the, with the
3 environmental --

4 MR. TOOKER: Who are you with?

5 MR. WALSH: Southern California Edison.
6 Instead of creating potentially two, two paths
7 which could potentially create two different
8 results. I mean, I, I tried to address that in my
9 initial remarks. I had a little bit more, I'm
10 going to ask Matt Layton to respond.

11 One of the things that we try to do to
12 create more accuracy is to have a unit based
13 approach, which is similar to what the Energy
14 Commission agency does. And it's different, from
15 my understanding, than what the air districts do,
16 which is more of a modeled approach. So we,
17 again, we think the unit based approach can
18 provide us with a little more accuracy and control
19 over the data. You know, if, Matt, if you want to
20 add anything to that, or modify that statement.

21 MR. LAYTON: What, what we're trying to
22 do is, what we're really trying to do is capture
23 the smaller unit. So we do have a problem because
24 they don't necessarily report to the districts
25 their emissions or emission factors that violates

1 a permit and walk away. We think the smaller
2 units may have a disproportionate effect on
3 emissions, emissions, air quality and especially
4 on a localized level.

5 So we're really trying to get better
6 information about those. The larger units are
7 well controlled, pretty well defined. We don't
8 expect them to change much from year to year.
9 Again, we're looking for, looking for emission
10 trends, and trying to capture the environmental
11 efficiency and the environmental footprint.

12 Again, the smaller units may have a
13 small footprint because they don't operate much.
14 They're just very small. But they may be very
15 environmentally inefficient. So we're trying to
16 pull out the, those portions of the fleet that are
17 -- that may require some action or may, again,
18 have a disproportionate effect.

19 I think you raised a very good point on
20 how we can make this consistent. I'm not sure I
21 can answer your question today. I'd like to think
22 about it. I think it could be a very good, very
23 significant problem.

24 MS. McBRIDE: I've got one more
25 question.

1 MS. TOOKER: Could you go to the mic,
2 please.

3 MS. McBRIDE: For, so I'm assuming that
4 (1)(A) is only for combustion, for thermal
5 combustion sources, because we had a concern for
6 one of our geothermal plants that it said report
7 the emission factors in pounds per million BTU.
8 And obviously, if you're a geothermal, then you
9 wouldn't have an emission factor in pounds per
10 million BTU.

11 MR. LAYTON: We had hoped that the
12 geothermal units would report their emissions,
13 specifically CO2 emissions. So we would like to
14 correct that. I don't know how to correct that
15 right now.

16 STAFF COUNSEL HOLMES: Anymore
17 discussion on the emissions information? Okay.

18 Water supply and wastewater discharge.
19 This set of requirements applies to the plants
20 with a capacity of 20 megawatts or more. It
21 requires information about the, the source of the
22 water, how much is used, daily average, daily
23 maximums. Monthly and annual amounts. How does
24 it get metered. How often does it get metered.
25 What type of cooling technology gets used.

1 On the wastewater side of things, what
2 type of systems are used to dispose of wastewater,
3 what kinds of measures are taken. What's the
4 receding water. Where is the, where is the
5 wastewater going. What's the, what are the
6 monthly and annual totals, what are the daily
7 average and daily maximums. And then any reports
8 that are submitted to the regional boards or to
9 the state board that describe the characteristics
10 of the source water or the wastewater discharge.

11 Any questions, comments, concerns about
12 those sets of requirements?

13 MS. McBRIDE: On the water use, I mean,
14 you ask for some specific data on where the water
15 comes once it comes in the facility. Most of our
16 facilities, especially the smaller ones, all we
17 know is where the water's coming from, if it's
18 recycled water, if it's, if it's water from the
19 city, water coming in. We don't have meters on
20 each individual process inside the plant. We can
21 definitely provide you with a mass balance type
22 calculation and estimation of where that water
23 goes to, but we won't be able to give you exact
24 accurate, you know, metered data on where it --
25 where each individual stream goes to.

1 And that's on the wastewater side, too.
2 I mean, obviously, we, we discharge to a POTW, we
3 have that data because we pay based on how much
4 water we, we discharge. But as far as, you know,
5 like even sanitary sewers, we pay a base rate. We
6 pay a monthly rate and we don't meter that, how
7 much is discharged through that system.

8 MR. MCKINNEY: And that's a, that's a
9 good comment. That's one of the things we want to
10 understand, is, you know, what type of metering
11 technology is employed out there and how prevalent
12 is it. So I think that's a great comment.

13 MS. MCBRIDE: Okay.

14 MR. MCKINNEY: And in all, in all cases,
15 you know, if, if something doesn't match up
16 perfectly as it's written here, we, we really
17 appreciate these comments, and also ask for best
18 professional judgment in supplying the data.

19 STAFF COUNSEL HOLMES: Anymore comments
20 on water supply, wastewater?

21 Moving on to biological resources.
22 Again, as we noted before, this applies to plants
23 with a capacity of one megawatt or more that have
24 been constructed or expanded since 1996. That may
25 reduce the number of comments.

1 We're basically looking for a
2 description of the habitats that are used by the
3 power plants. We're asking for a description of
4 the habitat and, and how much habitat is used by
5 threatened and endangered species, critical
6 habitat designation. We're interested in an
7 annual report of mortality for species that are
8 entitled to legal protection. We're looking for
9 information about the bio-mass that's impinged as
10 a result of once-through cooling. We'd like to
11 know what kinds of measures and devices are
12 utilized to reduce impacts to wildlife, and then a
13 summary of any notices of violation that have been
14 received.

15 So, comments on that section. Andy.

16 MR. BROWN: Yeah. Is (C)(1) essentially
17 a one-time report?

18 STAFF COUNSEL HOLMES: Well, I think --
19 yes. We, we struggled with how to write this, and
20 if you've got suggestions for how to do it better,
21 we'd love to hear them. Anybody new who comes in
22 on each two-year cycle, we want the whole report
23 from.

24 MR. BROWN: Yes.

25 STAFF COUNSEL HOLMES: But if you've

1 given it to us before and nothing's changed, then
2 all we need you to do is to tell us that.

3 MR. BROWN: And, and to the extent a
4 CEQA analysis was done, you know, back in '96, can
5 we just, you know, and, and it hits these things,
6 can we just provide that?

7 MR. McKINNEY: Yes.

8 STAFF COUNSEL HOLMES: Yes.

9 MR. BROWN: As opposed to having to
10 generate something new.

11 STAFF COUNSEL HOLMES: Yes.

12 MR. McKINNEY: Well, presumably you'll
13 get the same answer. So yes, I think the original
14 CEQA documentation would be the same.

15 MR. BROWN: Well, but what, what you
16 just said was presumably you get the same answer.
17 It turns into a very different burden question for
18 the amount of work that has to be done.

19 MR. McKINNEY: Can you expand on that,
20 please?

21 MR. BROWN: Sure. I mean, if, if you're
22 saying that the work that was done for the
23 original project isn't going to be sufficient, we
24 need you to, you know, look at this every year, as
25 opposed to, you know, initial --

1 STAFF COUNSEL HOLMES: No, it would be,
2 it would be a one time, the theory is that it's
3 one time. Until there is construction or
4 modification, or something like that, and then we
5 want, we want information about the effects
6 associated with that.

7 I understood your question to be can the
8 one-time, say for example that you are the owner
9 of a facility that was constructed in 1998. And I
10 understood your question to be well, can we just
11 give you the original CEQA documentation for that
12 project, and I think the answer is if the original
13 CEQA documentation gives this information, then
14 the answer is yes. If the original CEQA
15 documentation is a checklist neg.dec., then
16 probably not.

17 MR. BROWN: Okay.

18 MR. MCKINNEY: And I think, I mean,
19 because Caryn, as we were discussing, is we really
20 did intend for this to be a one-time submittal
21 unless there's a major facility expansion. And I
22 don't see that language in here.

23 STAFF COUNSEL HOLMES: There's language
24 in 1303 that says -- let me find it so that
25 everyone -- I actually would like people to --

1 well, I'm looking for it first. Maybe it's 1302.
2 No, it is 1303. I talked with Jeff about this
3 yesterday. It's H --

4 MR. BROWN: Is this the language where
5 you just point back to the prior year's
6 submission?

7 STAFF COUNSEL HOLMES: Right. On page
8 17 it says, if the data required to be included in
9 the report is exactly the same as data included in
10 the previous report submitted by the same company,
11 you don't need to give us the data; just tell us
12 when you gave it to us.

13 So that's subsection 8 of 1303, on Page
14 17. So rather -- and that's true, and that's true
15 not just for this section on biology, but it's
16 true for anything that's in this set of
17 requirements. If nothing's changed, to the extent
18 that we're not asking for operational information
19 but characteristics kinds of information, if
20 nothing's changed, you can just tell us that it's
21 the same as the previous filing.

22 So I didn't pull it specifically into
23 (C)(1), but I think it is incorporated in 1303.

24 MR. BROWN: Okay. Thank you.

25 MR. TOOKER: Comment from Calpine, I

1 believe.

2 MS. McBRIDE: Yeah. I, I had a
3 question, and then I have a comment on the avian
4 and terrestrial studies.

5 Did you say that if there was never, say
6 there was never any study, biological studies
7 done, for whatever reason, we need to generate
8 them as part of this report?

9 MR. McKINNEY: Yeah. That's the, that's
10 the staff intent.

11 MS. McBRIDE: Okay, because those are
12 very, pretty costly. I mean, as far as, you know,
13 doing surveys, biological surveys and, and those
14 types of things if you want to, you know. Or do
15 you just want a listing of the species that
16 potentially might be affected?

17 MR. McKINNEY: Well, again, we, we tried
18 to be quite precise with the language in here, so
19 1(A), (B), and (C) really try to delineate
20 different categories of habitat, and we chose a
21 habitat classification system that was kind of
22 mid-range in terms of its complexity. We didn't
23 want, you know, too much detail, and we wanted
24 something more than, you know, chaparral and
25 conifer. So we, again, we're trying to work with

1 you to make that better.

2 MS. McBRIDE: Okay.

3 MR. McKINNEY: I'm always available for
4 discussions.

5 MS. McBRIDE: Okay. We'll propose,
6 we'll propose something in writing on that, too.

7 And on the, on the avian mortality, the
8 terrestrial and avian mortality studies, just for
9 you guys' information, I mean, we do do avian
10 mortality studies at a lot of our plants that
11 have, do have a CEC license. Those cost anywhere
12 from 40 to 60,000 a year per plant. And so we
13 actually just had a site that we petitioned the,
14 the CEC to get that condition removed, and so we
15 no longer have to do the avian mortality studies.
16 And I'm assuming that this would basically make
17 that approval obsolete by saying that we have to
18 continue to do those avian mortality studies?

19 MR. McKINNEY: The intent here is to
20 limit reports on wildlife mortality to those are
21 listed under the state and federal endangered
22 species acts.

23 MS. McBRIDE: Uh-huh.

24 MR. McKINNEY: So, again, we're trying
25 to narrow the scope of the reporting requirement

1 as much as possible.

2 MS. McBRIDE: But is this supposing new
3 studies that we'd have to do at existing plants?

4 MR. McKINNEY: The, the --

5 STAFF COUNSEL HOLMES: The exemption
6 that you received for a study that was limited to
7 protected species, or was it --

8 MS. McKINNEY: I don't know, I'm not
9 sure. I'll have to go back and look exactly what
10 the species was. I mean --

11 STAFF COUNSEL HOLMES: Okay. I'm trying
12 to find out the scope of the two sets of --

13 MS. McKINNEY: Yeah.

14 STAFF COUNSEL HOLMES: It sounds like
15 maybe our biologist might know the answer to this
16 question.

17 MR. YORK: Rick York, Energy Commission
18 staff. I think what you're referring to is the
19 Sutter project?

20 MS. McKINNEY: Yes.

21 MR. YORK: And we are reviewing their
22 last year's worth of data and we are considering
23 their request to stop the monitoring that they
24 were held to as part of the Commission decision.

25 In that case it's, the power plant is

1 close to national wildlife refuges and state
2 refuges, and the concern there was the migratory
3 water fowl, not protected species like eagles and
4 those sorts of things.

5 STAFF COUNSEL HOLMES: So there's a
6 different set of studies.

7 MR. YORK: Different set.

8 MR. McKINNEY: And this, if I can just
9 say a little bit more about the, the staff
10 reasoning process in this. Presumably, under the
11 state and federal endangered species acts, it's,
12 it's not legal to take species unless a permit is
13 specifically issued for that. If a permit is
14 specifically issued for that, there is generally a
15 monitoring and reporting requirement back to those
16 agencies, and that's the type of information that
17 we're requesting here --

18 MS. McBRIDE: Okay. But basically --

19 MR. McKINNEY: -- is information on
20 mortality of listed species. Again, with the
21 presumption that this is not legal unless
22 specifically authorized by a permit.

23 MS. McBRIDE: Right.

24 MR. McKINNEY: Which triggers a set of
25 reporting requirements.

1 MS. McBRIDE: Okay.

2 STAFF COUNSEL HOLMES: Commissioners,
3 we've had a request for a short break. Is that
4 possible, before the lunch hour?

5 PRESIDING MEMBER PFANNENSTIEL: Yes, of
6 course it's possible.

7 STAFF COUNSEL HOLMES: We want to keep
8 our audience happy.

9 PRESIDING MEMBER PFANNENSTIEL: Yeah.
10 Well, we also want to keep moving. So why don't
11 we do a ten-minute break. Back here -- well, how
12 about a 12-minute break. Come back here at 20
13 after.

14 (Thereupon, a recess was
15 taken off the record.)

16 STAFF COUNSEL HOLMES: Were we finished
17 with the -- are we finished with the discussion on
18 Biological Resources, or is there more?

19 MR. HARRIS: A couple of questions.

20 STAFF COUNSEL HOLMES: Okay.

21 MR. HARRIS: You made it 1996, now.

22 STAFF COUNSEL HOLMES: Of course we did.

23 MR. HARRIS: But it only applies to this
24 section, though, right, the '96 date?

25 STAFF COUNSEL HOLMES: It's the only --

1 yes.

2 MR. HARRIS: The first question is why
3 '96? Is that just post deregulation, or exactly?
4 Okay. That's what I thought.

5 A couple of points, too, on the language
6 on C(1)(A). I think it would be helpful to
7 provide for alternative means of satisfying the
8 information on the biological issues. You know,
9 you said you'd accept, for example, an EIR, if
10 somebody had done an EIR originally, maybe you
11 ought to express the same language, you know,
12 prior CEQA document, and if Caryn wants to, you
13 know, suggest that a negative dec isn't
14 sufficient, maybe it has to be an EIR.

15 But one of the problems I think we see
16 with the language right now is it's, it's very
17 specific and there's only one way to satisfy it.
18 It has to be this mire, and I won't even both with
19 the second name, it's not even --

20 STAFF COUNSEL HOLMES: Nothing's there.

21 MR. HARRIS: What Rick said. It has to
22 be that particular methodology. And I don't know
23 anything about the costs associated with that
24 methodology, but I do know if you have a, a single
25 methodology when you go out to bid that that's

1 going to cost you more. And so I guess maybe from
2 the generator side we'd be looking for a little
3 more flexibility on how you satisfy this
4 requirement, and is this a prior EIR, so maybe
5 some other methodologies.

6 MR. McKINNEY: Can I, can I respond to
7 that point? I was talking to Danny here during
8 the break, and I, it's just unfortunate that we
9 weren't able to have some of these discussions
10 with the generator community prior to this,
11 because I find these very helpful.

12 But, see, the challenge that we're faced
13 with and why we're proposing a uniform
14 classification system is that if we get, you know,
15 data coming in on habitat types and it's using
16 three or five different classification systems,
17 that makes it very difficult for us to establish
18 on a uniform category. So we want to know, you
19 know, how much riparian forest was lost, how much
20 of a certain type of grassland, how much of
21 different type of conifer forest was displaced.
22 And again, this classification system is kind of a
23 good mid-range level of detail.

24 So ultimately, to go back to
25 Commissioner Pfannenstiel's question, how do we

1 intend to use this data, we want to be able to
2 create reports that say well, to get X amount of
3 megawatts from a certain technology these types of
4 habitats were consumed. And without some
5 uniformity in the classification system for
6 vegetation and habitat, it makes it a lot more
7 complicated for us to do our job.

8 So that's the, that's the staff intent
9 with this proposal.

10 STAFF COUNSEL HOLMES: And Jeff, I don't
11 think it's, I don't think it's a methodology in
12 the way that you and I might think of in terms of,
13 like, the studies that we see for siting cases.
14 It's just saying here's the level of detail that
15 you have to give us the information, at which you
16 have to give us the, the information, by
17 specifying the classification system.

18 MR. HARRIS: I understand staff's intent
19 is to have a uniform, uniform set of information,
20 and I guess my question is, is this the only way
21 we can get there. If it is, then there may be
22 costs, there will be costs associated with that
23 for, for the generator so they can collect that
24 information, particularly those that have gone
25 through an EIR process, to have to go through it

1 and now they have to re-package the EIR to satisfy
2 this requirement. That's going to be an
3 additional burden, I think.

4 One of the other things I wanted to
5 focus on is in these subsections, under (1), it
6 talks about the affected habitat. I can see a
7 fair amount of attorney time for generators going
8 into figuring out what that means. I don't know
9 if you had a significant impact, you know,
10 standard in mind. I'm not sure what happens, for
11 example, if I start with something that's ten
12 acres and five of it was parking lot, you know,
13 did I affect five acres or ten. There's going to
14 be a lot of questions about what that, what that
15 means.

16 And so I guess my first question was,
17 was the intent a significant impact analysis or
18 just the fact that something has a fence around it
19 now.

20 MR. TOOKER: I think another word that
21 might be helpful is, is displaced. So for your
22 parking lot example, so displaced, so that's no
23 longer in a natural state. And that's good one-
24 time information. But in terms of effects, you're
25 right. There are a lot of legal connotations with

1 that term. And in terms of CEQA, we're not
2 looking for indirect or cumulative types of
3 effects, but really direct effect. And not impact
4 in the CEQA legally defined standard of is it a
5 significant impact, but is there, is there an
6 effect, a measurable effect there.

7 MR. HARRIS: And I assume you, you're
8 focusing on permanent effects and not like
9 construction or --

10 MR. TOOKER: Not construction effects.

11 MR. HARRIS: Okay. So you're suggesting
12 displaced be used instead of affected.

13 MR. MCKINNEY: No. I'm trying to
14 identify different words to help create some
15 understanding here. And --

16 MR. HARRIS: Well, one more example now,
17 that brought this to mind, is that, you know, for
18 some projects you've required mitigation for
19 nitrogen deposition affecting checker spot
20 butterflies in various places. So if I'm
21 representing a generator and they come to me and
22 they say how many acres of habitat have I
23 affected, do I have to think about nitrogen
24 deposition and that whole calculation, as well.
25 So, you know, I think onsite permit, that's pretty

1 clear. I'm not sure how broad we're going to have
2 to go.

3 And so maybe again, for Caryn, maybe
4 this section ought to be on information and belief
5 too, because, you know, you aren't going to be
6 exactly sure about what these mean, these terms.

7 MR. McKINNEY: And your nitrogen
8 question, that's great. I don't know the answer
9 to that. That's a good example. So, I mean, Rick
10 and I need to confer on that one.

11 STAFF COUNSEL HOLMES: Is that it on the
12 biological resources?

13 Okay. The second subsection of this
14 section talks about the UDC reports. We've
15 changed this, as I commented before, from semi-
16 annually to quarterly, and provided some new
17 dates. There's also some additional information
18 at the top of Page 29.

19 MR. BROWN: On socioeconomic, is that --

20 STAFF COUNSEL HOLMES: I'm sorry. I
21 missed that.

22 MR. BROWN: -- is that, is this new, as
23 well?

24 STAFF COUNSEL HOLMES: Yes, this is new.
25 This is basic descriptions about employment,

1 payroll taxes, things like that, for plants with
2 generating capacity of one megawatt or more.

3 MR. BROWN: And, and how generic can we
4 make this, and, and I haven't spent a lot of time
5 speaking to clients about sensitivity of the data
6 and, and degree of, of confidentiality that might,
7 may, you know, be desired or whether or not it's
8 applicable. But I do know that I think it was
9 just an informal request last year for this, and I
10 believe some of the answers were relatively
11 generic that you received.

12 Is that sufficient? You know, in here
13 it's talking about description of employment,
14 payroll taxes, fees, et cetera. A lot of that is
15 pretty commercially sensitive stuff. And so
16 those, those, you know, getting a sense of what
17 you're actually looking for here.

18 STAFF COUNSEL HOLMES: Well, I believe
19 that some of, if my recollection is correct, some
20 of it was not generic enough that it did qualify
21 for confidentiality, so.

22 MR. BROWN: So --

23 STAFF COUNSEL HOLMES: That's my
24 recollection.

25 MR. McKINNEY: Yeah. And we, this issue

1 came up a lot, especially with the cogenerator
2 community in the 2004 cycle, and we worked with
3 them pretty closely to make sure that if there
4 were sensitive data that were submitted, that we
5 would guide them through the confidentiality
6 request process. And I think in all instances,
7 except for one or two, confidentiality was granted
8 by the Commission.

9 MR. BROWN: Okay. But in, in instances
10 where some of the information was given on a
11 pretty generic basis, was that sufficient enough
12 for you, or not? I guess I -- see, there's one
13 way we can make --

14 STAFF COUNSEL HOLMES: What do you mean
15 by -- explain what you mean by generic.

16 MR. BROWN: Well, I mean, if, if you
17 aren't providing a lot of specific granular
18 information, as opposed to, I don't know, being
19 able to aggregate it out within -- I, I'm, I
20 don't, I can't remember if I can go into details
21 beyond -- I mean --

22 MR. McKINNEY: Can I give you some
23 examples where this does apply.

24 MR. BROWN: Yes.

25 MR. McKINNEY: For one with a small

1 cogen facility attached to some type of
2 manufacturing process, you may have X number of
3 mechanics or environmental compliance people whose
4 duties are spread between the manufacturing
5 process and the power plant, and so we ask for
6 best professional judgment in kind of allocating
7 which employees work on, on the power plant.

8 The same, say, with the example we
9 talked about with the small gas collection unit at
10 a landfill. Same thing, there would probably be a
11 lot of overlapping responsibilities. Maybe
12 there's one mechanic for the power units that
13 spread across a wide geographic area. Again, I
14 think best professional estimates in that case
15 would suffice.

16 MR. BROWN: Okay.

17 STAFF COUNSEL HOLMES: Thank you. Were
18 there any comments on the changes to the UDC
19 reports?

20 Control area operator reports. Section
21 1305 beginning on Page 29.

22 Electric utility LSE and UDC reports and
23 customer classification reports. This is Section
24 1306, beginning on Page 30. Mr. Klatt.

25 MR. KLATT: Greg Klatt, from Alliance

1 for Retail Energy Markets.

2 And just kind of a threshold question.
3 I should probably know this, but I'm not clear,
4 just probably because of the time we had to review
5 this. But is this quarterly reporting
6 requirement, is this a new requirement for ESPs,
7 or is this an existing requirement?

8 STAFF COUNSEL HOLMES: This is an
9 existing requirement.

10 MR. KLATT: And so you simply took back
11 the requirements for the non-utility LSEs, which
12 would include ESPs, and separated them out into a
13 separate subsection?

14 STAFF COUNSEL HOLMES: That's correct.

15 MR. KLATT: And I don't, then I don't
16 believe there was any substantive changes to those
17 requirements. Is that correct? Sorry for the
18 cross examination.

19 STAFF COUNSEL HOLMES: I don't believe
20 so. Lynn, aren't they the same?

21 MS. MARSHALL: That's correct.

22 STAFF COUNSEL HOLMES: Yeah, they're the
23 same.

24 MR. KLATT: Then the only question or
25 comment that we have went to not necessarily a

1 change that was made, but just the, the
2 requirement itself, as we have the regulation
3 before us, that has the non-utility LSEs,
4 particularly ESPs, report information, or provide
5 information on a county level basis. And we've
6 addressed that more in our written comments.

7 STAFF COUNSEL HOLMES: You did provide
8 written comment about that. Lynn, do you have a
9 response to that as to whether you need this
10 information by county?

11 MS. MARSHALL: Yeah. I think it's
12 important that we continue to get that data back
13 because these -- all LSEs report to the county
14 level. And it's important in order to do our
15 forecast that we continue to get that.

16 MR. KLATT: Thank you.

17 STAFF COUNSEL HOLMES: Any other
18 comments on Section 1306?

19 Okay. Section 1307, which is the gas
20 utility, the flip side of this. The gas utility
21 and gas retailer reports. Any comments on Section
22 1307, beginning on Page 31? That's good.

23 Quarterly gas reports, gas utility
24 reports, excuse me, beginning on Page 32. That's
25 Section 1308. It's getting monthly data.

1 Okay. Section 1309. This is quarterly
2 reports for the Interstate Natural Gas Pipeline
3 Company and LNG terminal reports. That begins on
4 Page 37. Comments about that.

5 And again, with, with each of these
6 sections, to the extent that the changes and
7 definitions have resulted in us not accurately
8 capturing who should be reporting or who should be
9 reporting what in each section, please tell us.

10 Section 1310. Natural gas processor and
11 LNG terminal reports. Okay. No comments. We'll
12 keep moving. I think we'll have comments on the
13 next one.

14 Section 1311, which begins on Page 40,
15 is our attempt to establish the energy efficiency
16 data requirements for municipal programs,
17 municipal -- yes?

18 MR. TOMASHEFSKY: Thanks, Caryn. I've
19 got a few comments to make, actually.

20 STAFF COUNSEL HOLMES: We know who you
21 are, but maybe everybody else doesn't.

22 MR. TOMASHEFSKY: You know who I am.
23 That's right. Yes. Scott Tomashefsky, with the
24 Northern California Power Agency. Thank you for
25 having me.

1 A couple, couple of things, actually.
2 We've been working pretty closely with staff on
3 working through the details of this, this section
4 in advance, which has actually been pretty
5 productive. But there's a couple of things I just
6 wanted to add, as a starting point.

7 One with respect to the reporting date,
8 September 15th. One thing that you'll get with
9 the September 15th date is you'll find a lot of, a
10 lot of the publics are on a fiscal year basis, and
11 so they don't close their books until the end of
12 October. So --

13 MR. TOOKER: Can you speak up, please?

14 MR. TOMASHEFSKY: -- at least in terms
15 of what we're doing with respect to this report,
16 which is actually required starting this year even
17 though it's not in the regulations, we're looking
18 to provide that report.

19 STAFF COUNSEL HOLMES: We didn't include
20 this year because of the fact that we've got this
21 problem with the date, quite frankly. If we can
22 solve that during this rulemaking, that would be
23 great.

24 MR. TOMASHEFSKY: Absolutely. I
25 understand that, so we're figuring on --

1 STAFF COUNSEL HOLMES: So they close
2 their books at the end of September, is that --

3 MR. TOMASHEFSKY: In the
4 September/October time period, and then there's a
5 couple of members that are on a calendar year
6 basis, so that's something that we have to look at
7 within the group of 39 public utilities. So
8 that's something to, to keep in mind.

9 Another thing also within that same
10 section. I know the statute itself talks about
11 demand response programs, but this, of course, is
12 focused on efficiency programs only, so you might
13 want to consider striking that language here and
14 then we probably should talk about how you want to
15 deal with the demand response aspect of that so
16 that you keep them separate.

17 And, of course, that also goes under
18 the title if you want to have, under Section 1311,
19 you want to probably characterize that as energy
20 efficiency program data collection for publicly
21 owned utilities, because investor owned utilities
22 will have their own, their own approach for, for
23 dealing with that.

24 The delegation authority works really
25 well in 1303 within the context of 1311, because

1 of the, the requirement to have each locally
2 publicly owned utility file those comments. The
3 interesting nuance of, of that requirement is that
4 everywhere within data collection regulations when
5 you've got the, the 200 megawatt threshold, and as
6 you look at lowering the 50 megawatt threshold,
7 this is going to be the one area where it requires
8 everyone, so that our member, our member, the city
9 of Biggs, for example, is 790 acres and a thousand
10 customers, would be treated the same way as
11 everyone else. So the need to aggregate that
12 information is really important.

13 So part of the plan and, and dealing
14 with this report is we're looking to file one
15 report under a heading which would include a, a
16 compilation of NCP members, SCAPA members, and the
17 four or five members that don't fit under each of
18 those umbrellas to provide --

19 STAFF COUNSEL HOLMES: Would they be
20 separately identified there, or are you saying
21 you're going to aggregate all of that information?

22 MR. TOMASHEFSKY: Well, we're going to,
23 we're going to aggregate the, the report itself as
24 far as how we report that. There would still be
25 individual information that would be included in

1 there.

2 STAFF COUNSEL HOLMES: Okay.

3 MR. TOMASHEFSKY: And so to the extent
4 that we can't make that work for all 39, you'll
5 find individual reports submitted. But the, but
6 the game plan, at least from our, from our
7 perspective, is to file one report collectively.
8 And we've been, we've been working pretty closely
9 with SCAPA to --

10 STAFF COUNSEL HOLMES: Yeah. And you've
11 been working with our staff, as well.

12 MR. TOMASHEFSKY: And -- yeah,
13 absolutely.

14 STAFF COUNSEL HOLMES: Yeah.

15 MR. TOMASHEFSKY: And, and we're working
16 with that in connection with the Efficiency
17 Committee, to make sure everybody's taking it into
18 consideration.

19 The only other comment I would have is
20 related to Section, it's under 1311(a)(4), the
21 specific reference to cost effectiveness for each
22 of the programs. The statute itself, of course,
23 has cost effectiveness built into, we're supposed
24 to consider cost effective energy efficiency. How
25 we report that's not defined, and we're working

1 with staff to try and determine the best way to
2 make that happen. So from the standpoint of
3 keeping it consistent with the flexibility of the
4 13 -- the 1037 language, we'd just as soon have
5 that part stricken. And, of course, that applies
6 for gas energy efficiency programs, as well.

7 So the idea is that we need to figure
8 out how to build cost effectiveness into a report,
9 but it's not required by statute at this point.
10 And I think Sylvia was -- Sylvia and I had some
11 conversations about that on Friday, and I think
12 that's your understanding, as well. So --

13 STAFF COUNSEL HOLMES: So you'd be
14 proposing changes to this section that would say
15 something along the lines of that, that your
16 members would be telling us how cost effective the
17 program is and telling us how they reached that
18 conclusion, as opposed to using the total resource
19 cost test.

20 MR. TOMASHEFSKY: Well, yeah. I think
21 one, to stay away from the prescriptive nature of
22 what's in that line item is, is important because,
23 as we have talked with staff, we, we've been
24 working with -- to develop similar tools and what
25 the IOUs have been using in terms of measuring

1 cost effectiveness.

2 STAFF COUNSEL HOLMES: I know this is a
3 PUC document.

4 MR. TOMASHEFSKY: Right. And, and, of
5 course, how we, how we measure that and how we
6 report that, we need to come to some determination
7 because, of course, within the administering
8 utility portfolios there are programs that are
9 cost effective and not cost effective. And, of
10 course, you've got much more of a wider range of
11 -- there's just more economies of scale associated
12 with a larger program. So we need to figure out
13 how we, how we address that at the, the publicly
14 owned utility level, both for big and small.

15 So to have that stricken from there,
16 with the understanding that cost effectiveness is
17 built into the 1037 statute. We can work through
18 a lot of those, a lot of those issues, I think,
19 with respect to how we report on, on programs and
20 energy and peak demand savings. So I think we'd
21 like to keep that as open ended as possible, at
22 least at this point. And at least consistent with
23 the language that's in there.

24 STAFF COUNSEL HOLMES: Is the
25 aggregation of data or the combining of data that

1 you referred to earlier, is that, do you see that
2 as a -- being able to do that as a problem under
3 the existing language, or are you going to propose
4 changes?

5 MR. TOMASHEFSKY: No. No, I actually --
6 with respect to one, two and three, I have no
7 problem.

8 STAFF COUNSEL HOLMES: Okay. That's
9 fine. Right. And do you have, do you have a
10 solution for the whole, or a proposed solution for
11 the whole issue of the filing dates?

12 MR. TOMASHEFSKY: For -- I'm sorry.,

13 STAFF COUNSEL HOLMES: The whole issue
14 of the filing dates.

15 MR. TOMASHEFSKY: Well, not --

16 STAFF COUNSEL HOLMES: With our IEPR,
17 with our IEPR deadline and your, your members --

18 MR. TOMASHEFSKY: Right. Right. Well,
19 I think if you step back from what I think works
20 best for us, and then how it works, works within
21 the context of, of what you need, December 15th
22 becomes a good date for us to submit that
23 information. And what you'll get out of that
24 information is that for the members that are
25 filing on a calendar year basis there may be a few

1 months where it might be a little bit off, but if
2 you think about the context of, of full range of
3 the resource analysis, it's very small when you're
4 looking at 7,000 megawatts peak. So it's, it's
5 not, it's not a significant, I guess, variation if
6 you're looking at it statistically.

7 So ideally, December 15th becomes a good
8 time to provide that report. If, if you want to
9 look at something else, we can go back and take a
10 look and see what, what would best fit your needs
11 in conjunction with what would best come up with
12 the complete data. And I think that's kind of the
13 dilemma, is the closer, the further up you move
14 that time period, the less likely -- the data on
15 that, for, for that information from the
16 utilities.

17 STAFF COUNSEL HOLMES: All right. Okay.

18 MR. TOOKER: Scott, what's the timeframe
19 you expect in terms of having that dialogue with
20 staff and coming to some conclusion?

21 MR. TOMASHEFSKY: We've been having
22 dialogues with staff since January or so. So it's
23 a continuing process, and we've had at least, at
24 least three iterations with staff. We've had a
25 couple of iterations with Commissioner

1 Pfannenstiel and Commissioner Geesman, as well.

2 So we --

3 MR. TOOKER: I guess I'm concerned,
4 though. This is going to need to go forward to
5 OAL with, with language. Are you talking about
6 just working on implementation and not the
7 language here, or what?

8 MR. TOMASHEFSKY: No, I think, like I
9 said before, most of the language here is fine.

10 MR. TOOKER: Okay.

11 MR. TOMASHEFSKY: In terms of what you
12 have under one, two and three, what's in 1037,
13 which is great from our perspective. It also
14 allows us to be somewhat flexible as to how we
15 provide that information, which is really where we
16 work with the staff on an ongoing basis, say this
17 is what we're looking to provide. And I think the
18 intent that we're looking at is to have the
19 efficiency basically bless what we're, what our
20 approach is for 2006 that'll form a framework for
21 2007. And by that time we think we'd have it
22 right, so that when you have it as a, a regulation
23 requirement in 2008, we've got pretty much
24 everything we want to have in there.

25 MR. TOOKER: Thank you.

1 STAFF COUNSEL HOLMES: Does anybody else
2 have any comments on 1311? Yes. Oh, you want to
3 go back? That's fine.

4 MS. KELLANI: A couple of questions on
5 1306, just clarification questions. 1306, this is
6 on page 30, Section -- in that general section, is
7 that bundled utility sales that we were talking
8 about, all the monthly electricity sales, monthly
9 number of customers, monthly revenue. Is all that
10 from the utility's perspective, are bundled
11 customers and not our direct access customers;
12 correct? Like number of customers, and stuff.

13 STAFF COUNSEL HOLMES: That's bundles
14 customers.

15 MS. KELLANI: Bundled customers. And
16 secondly, in -- what section is it in --
17 1306(a)(1)(D). Currently we report both by names
18 and, and SIC, a dual reporting process. Is that
19 finished with and are we going directly just
20 to --

21 STAFF COUNSEL HOLMES: Yes.

22 MS. KELLANI: Yes. Thank you.

23 STAFF COUNSEL HOLMES: Reducing
24 reporting requirements.

25 MS. KELLANI: That's fine. That's --

1 you've noticed we've added the rate. Yes. Okay.

2 I think that's it. Thanks.

3 STAFF COUNSEL HOLMES: Okay, good.

4 Does anybody also have comments on the meeting
5 energy efficiency language? No? Okay.

6 We are moving on now to the Article 2,
7 the forecast and assessment of energy loads and
8 resources. As I said, you'll -- what we see at
9 the beginning here in 1340 and 1341 is trying to
10 have a fairly comprehensive set of definitions,
11 and then deal with exceptions or unusual
12 circumstances in terms of who reports what's
13 within the specific regulation that imposes the
14 actual reporting requirement.

15 So Section 1342, survey and load
16 metering reports. I don't think -- these were
17 just clean-up changes, I don't imagine that
18 anybody has comments on those? No. This is the
19 end-use survey information. This, again, was just
20 an attempt to clean up who, how we're defining who
21 reports what, and we also believe that the SIC
22 Code, since we're moving to make SIC -- other
23 comments on that?

24 MS. KELLANI: Just in general on this
25 whole section, that we think that probably there's

1 a lot more changes that could be made in this
2 section to make it more clear, to make the process
3 more clear, and we highly recommend a workshop
4 time dedicated to Section 1342.

5 STAFF COUNSEL HOLMES: Okay. Anybody
6 else have a comment on 1343?

7 How about load metering report, Section
8 1344, on Page 52. Yes, Jennifer.

9 MS. CHAMBERLIN: Jennifer Chamberlin,
10 Strategic Energy. I have a -- question here. And
11 B and A there are some ambiguities just applying
12 to the --

13 STAFF COUNSEL HOLMES: Yes.

14 MS. CHAMBERLIN: Okay.

15 MR. KLATT: So this would be a new --
16 this would be a new reporting requirement for the
17 ESPs?

18 STAFF COUNSEL HOLMES: Yes.

19 MS. CHAMBERLIN: Yeah.

20 STAFF COUNSEL HOLMES: Yes, it is.

21 MR. BROWN: And was -- currently the
22 Energy Commission received a lot of information
23 relative to the monthly resource adequacy
24 submission. Is, is there an overlap here, is
25 there duplication?

1 STAFF COUNSEL HOLMES: I have to turn
2 to, to Mike for the answer to that question. I'm
3 sorry to put you on the --

4 MS. MARSHALL: Some of this is -- some
5 of this is the identical data, so many of the ESPs
6 have already complied with this because they've
7 already started surveying their normal hourly
8 levels.

9 MS. CHAMBERLIN: I think part of the
10 question is -- doing it in four different places,
11 the same data in a different format, very
12 different -- we'll probably do written comments,
13 do a quick review in our first written comments.

14 MS. McKINNEY: It's certainly not our
15 intent that you send us the same data twice. In
16 some sense we're just qualifying some of the data
17 that we're getting through the resource adequacy
18 process. But who knows how that will -- we'll
19 continue to get that, and we get it early --

20 MR. BROWN: Yeah. And, and relative to
21 that point, I guess, you know, things are still
22 evolving, and, and our hope is that if they evolve
23 and there's a divergence from what gets codified
24 in these regs, we can still have a single
25 position. So, but I don't know how we'd do that,

1 but that's, that's something I think hopefully can
2 be done to avoid, you know, one, if we can say see
3 the reports we already gave you, that is great.
4 But if somehow some of those reports change,
5 either, you know -- so we don't have to retread
6 and recast information that we're developing and
7 providing in another context that's really close
8 but may be somewhat off from what the regs are
9 proposing.

10 STAFF COUNSEL HOLMES: Right. Well,
11 we've certainly seen that happen many times in the
12 past. And that's one of the reasons why we tend
13 to adopt a set of forms and instructions as part
14 of the IEPR cycle each time, so that we can focus
15 on that. But you're raising a good point, and
16 that is that the language about if you've already
17 given it to us once you don't have to give it to
18 us again, exists for the QFER regulations. It
19 doesn't exist in, in this article, and one of my
20 questions would be should it be, because -- and
21 the reason it doesn't is that typically this
22 information has been, these regulations have
23 identified the information that everyone submits
24 every two years in its forward-looking forecasts.
25 And so it, it didn't make sense to have it in

1 there now.

2 To the extent that we have expanded this
3 section and included these kinds of things where
4 there could be duplicative reporting, it's an area
5 we might want to add language saying if you gave
6 it to us before, you gave something, the, the same
7 process that's set out in 1303 could be pulled
8 into this article, if people think it's
9 appropriate. I don't see any harm in it. Okay.

10 MR. TOMASHEFSKY: Caryn, what's the,
11 what's the logic behind 50 megawatts here and 100
12 megawatts everywhere --

13 STAFF COUNSEL HOLMES: Microphone.

14 MR. TOMASHEFSKY: Oh, I'm sorry. What's
15 the logic behind the 50 megawatts here and the 100
16 megawatts every where else? Is there --

17 MS. MARSHALL: This is just for the, for
18 the historic hourly load, and for relatively small
19 LLCs that may be the only, the only other data
20 we'll get is their sales, so in terms of trying to
21 disaggregate our peak forecast or to provide local
22 area forecasts for transmissions -- or resource
23 adequacy, we need that to better understand the
24 loads that were detailed.

25 MR. TOMASHEFSKY: Okay. Okay. I just,

1 just the general caveat as far as lowering the
2 threshold, especially with some of our, some of
3 our members are -- the staffing resources are
4 actually going in reverse, as opposed to
5 expanding. So that's just something, just a
6 consideration, especially with -- specifically
7 with Alameda and Lodi especially going, going in
8 the, the cost-cutting measures that anything that
9 is required just to increase reporting is, is
10 concerned.

11 MS. MARSHALL: The historic hourly load
12 is pretty basic business data. So we're not
13 asking for anything more than that.

14 MR. TOMASHEFSKY: Okay. Thank you.

15 STAFF COUNSEL HOLMES: Yes.

16 MS. KELLANI: Also, on -- excuse me --
17 on these hourly loads, it looks like you're,
18 you're looking for, at least in these big
19 utilities, doing it by rate class, and that looks
20 like it's being asked for in customer groups that
21 are defined by -- codes. Is that, am I
22 interpreting that incorrectly?

23 MS. MARSHALL: Well, we have -- some of
24 this was a change that was made in the last
25 revision, but we're not really making any

1 substantive changes to the sector loads.

2 MS. KELLANI: For our historical hourly
3 load profiles, they're all done by base class, and
4 I guess my question is would that still suffice to
5 meet this reporting requirement? Because it would
6 be a very costly --

7 MR. GORIN: Tom Gorin, from the Energy
8 Commission.

9 I think the customer sector class is
10 about base --

11 (Note: Loud background noises.)

12 MS. KELLANI: I'm not, not the subject
13 matter expert. I'm carrying the message, so I
14 would have to go back to check. But I believe
15 there are hourly, historical hourly data is by
16 class, and the big classes are -- they are
17 somewhat tied to customer class, but they're,
18 they're not by -- and, but our load profiles been
19 done that way since forever, and we can give
20 examples for the hourly load profiles. They're
21 extremely sensitive.

22 MR. TOOKER: Can I ask -- hello. I'd
23 like to ask those on the phone to minimize noise
24 on their end. Thank you.

25 STAFF COUNSEL HOLMES: Ask them to mute

1 their phones.

2 MR. TOOKER: If you'd just mute your
3 phones, that would be great.

4 STAFF COUNSEL HOLMES: Does that address
5 1344, or do we need to -- is there more?

6 MR. LANDON: Could I ask a question
7 about the timeline change -- yes, Rob Landon from
8 SMUD. Ask a question about the timeline change
9 from June 30th to March 15th, I believe. Yes.
10 What prompted the timeline change?

11 MS. MARSHALL: We would like to get the
12 historical hourly loads sooner so that we can
13 start the process of evaluating previous loads and
14 temperatures to be able to update our forecast
15 more quickly. That particular date is the date
16 that in the PUC's resource adequacy process
17 identified March 15th as the date which the ESPs
18 and IOUs would send their historic load, and they
19 provide it by the end of March, all of that data,
20 this year. So it doesn't seem to be a problem, at
21 least for those parties. That's the reason for
22 it.

23 MR. LANDON: Okay.

24 STAFF COUNSEL HOLMES: Anything more on
25 1344?

1 Demand forecasts. Section 1345 on Page
2 55. We're adding hourly loads and load migration
3 issues. Yes.

4 MR. BROWN: We've got a 20-year forecast
5 horizon here?

6 STAFF COUNSEL HOLMES: Yes.

7 MR. BROWN: And for ESPs, that's not
8 really realistic. So I don't know if you want to
9 split it out separately, but that, that needs to
10 be addressed.

11 STAFF COUNSEL HOLMES: What would you
12 think would be a realistic estimate for the ESPs?

13 MR. BROWN: Well, I, you know, frankly,
14 I think even if you went to ten years, the outside
15 -- they could be just enormous, enormously
16 speculative. And I don't know -- I don't know. I
17 mean, I think we'd probably best address it in a
18 uniform way in written comments, but anything --
19 I'd even think that five years is pretty
20 speculative on those --

21 MS. LYNCH: Well, just a question. In
22 terms of collecting this data to get at who is
23 serving the load and who expects to serve the load
24 over the 20-year horizon, or is it intended to get
25 at the size of the load --

1 STAFF COUNSEL HOLMES: I think it's --

2 MS. LYNCH: -- overall?

3 STAFF COUNSEL HOLMES: I think it's
4 intended to get at both.

5 MS. LYNCH: At both.

6 MR. TOOKER: At the podium.

7 MR. WALSH: Yeah, Bill Walsh, from SCE.
8 We were -- it needs a clarification point under
9 Section 1350. The exemption appears to exempt now
10 any LSE with a load greater than -- a peak load
11 greater than 100 megawatts.

12 STAFF COUNSEL HOLMES: Less than.

13 MR. TOOKER: It should be less.

14 MR. WALSH: And I would also be curious
15 why the Commission would want a hourly forecast
16 in, say, the year 2025.

17 (Parties speaking simultaneously.)

18 MS. MARSHALL: Caryn, can I just make a
19 general response to that, the issue about that.
20 The 20-year forecast for an ESP may not be needed.
21 We're certainly aware of that. The -- each of
22 these sections for both demand and supply are --
23 these sections define the maximum scope of
24 information that we are allowed to ask for. We
25 then would have a workshop process and the ECO

1 process to define the specific parts of
2 instructions. And in the exemption section, it
3 does specifically say that the utilities, that the
4 Energy Commission can choose to exempt some LSEs
5 and have reduced reporting requirements for some,
6 for some entities.

7 So it may be very well that we looked at
8 all the information we're getting through the
9 resource adequacy process and have a reduced
10 reporting requirement for ESPs. That's something
11 that could be discussed at a workshop and then
12 incorporated into parts of instructions. So this
13 is not, you know, automatically be a requirement
14 for everyone every two years.

15 MS. KELLANI: Well, I have a question.
16 I speak for the utility, SDG&E, so -- but we're
17 not as small the ESPs. We're questioning the use
18 of this in terms of how, how inaccurate this will
19 have to be 20 years out including conservation
20 elements hour by hour. I mean, it's --

21 MS. MARSHALL: You know, the 20-year is
22 not a new term, that's the same term that's been
23 in there from time immemorial. In the last cycle
24 we only asked for I think 10 or 12 years.

25 MS. KELLANI: So for everybody you're

1 thinking, but it might be less.

2 MS. MARSHALL: What we leave in the regs
3 is the maximum scope of information that we want
4 to possibly be able to ask for. We can always in
5 our workshop process just choose to ask for less.
6 And certainly arguments such as you're making
7 might, might be heard and considered in that
8 process.

9 STAFF COUNSEL HOLMES: And were, last
10 cycle.

11 MR. McLAUGHLIN: Quick question. Just
12 on 1345(b). What's your authority for that, that
13 added language there for SNPs?

14 MS. MARSHALL: There was legislation --

15 MR. McLAUGHLIN: Is that AB 1723?

16 MS. MARSHALL: I think that's it, yeah,
17 that specifically directed us to collect that
18 information.

19 STAFF COUNSEL HOLMES: More comments on
20 demand forecasts?

21 Section 1346, on Page 56 is a new
22 section that staff proposes to use to collect
23 information about resource adequacy, and I can see
24 that Kathy has jumped up on the line at the, at
25 the mic.

1 MS. TRELEVEN: By the time you read
2 comments there'll be more people commenting here.
3 But I did want to mention a few things that are
4 both nicks and that go to the heart of some of the
5 harder issues that we have to deal with, that
6 we've been anticipating dealing with ever since
7 the October discussion of these data regs was
8 first laid out.

9 1346 as described, our resource adequacy
10 people tell me it's very much like what they give
11 to the CPUC, or what they're expecting to give to
12 the CPUC, and they specifically like the September
13 30th date because of its parallels. But while
14 you've made our resource adequacy people happy,
15 you've again made our folks who negotiate
16 contracts unhappy to again be facing two different
17 processes and two different agencies regarding
18 confidentiality.

19 I think we've come to realize that we
20 have two different processes, two different
21 agencies, and two agencies that may well come to a
22 different balance point when they try to balance
23 the good of sunshine and the good of the various
24 privacy components like keeping confidential some
25 customer data, and keeping our folks on a level

1 playing field with the marketers as we go out and
2 try to buy power.

3 I, I'm hopeful we can work through this
4 process. I saw some comments that Edison offered
5 that I think are valuable additions to what we
6 come through later, but I did also want to say
7 that I think the Commission's movement in these
8 regs toward at least making confidential
9 information that was last year determined to be
10 confidential is a helpful piece of, of dealing
11 with the fact that the whole process is very
12 different at the Energy Commission as opposed to
13 the CPUC.

14 MR. McLAUGHLIN: Bruce McLaughlin, CMUA.
15 AB 380, which was implemented January 1st, 2006,
16 really bifurcates the resource adequacy procedures
17 in California. There's a clear distinction
18 between the requirements for the IOUs or the CPUC
19 jurisdictionals and the publicly owned utilities.
20 And this is, and this I have a problem with that
21 word LSE here, and we talked about definitions
22 earlier. But this is something that's coming up
23 time and time again for CMUA because in Public
24 Utilities Code 380, which is applicable to
25 jurisdictionals to the CPUC, we are excluded from

1 that definition of LSEs. And we have our own
2 section which sets out our requirements. And so
3 it seems to me the reporting which is also
4 required by the POUs -- there's two microphones
5 here, could those be doing it?

6 (Note: Off the record discussion.)

7 MR. McLAUGHLIN: And so it's not a one
8 size fits all, as the saying goes. We do have
9 reporting requirements, we acknowledge those. But
10 what they are are different and definitely not in
11 lock step with what's happening at the PUC. We've
12 got some problems with the ISO, with the PUC sort
13 of throwing the POUs -- all these letters -- into
14 the same alphabet soup. And it's just something
15 we need to discuss, I think, at stakeholder
16 workshops.

17 STAFF COUNSEL HOLMES: Will you be
18 proposing specific changes to reflect what you
19 think that the munis ought to be reporting to us
20 for resource adequacy?

21 MR. McLAUGHLIN: I couldn't do it, we
22 couldn't do it as soon as May 18th, or May 8th,
23 but absolutely, we would make proposals.

24 STAFF COUNSEL HOLMES: Mike, did you
25 want to respond to that in particular?

1 MR. JASKE: Yes. Mike Jaske, CEC staff.

2 I understand 1342, even though it's a
3 general heading, is referring to surveys of the
4 reports. It seems now, by the modifications in
5 Section 8 that refer to the prior CFM section,
6 that that's good. I mean, if that's the case,
7 that's good, and it probably should be considered.

8 STAFF COUNSEL HOLMES: I'm sorry, what
9 did you say, Mike? I'm sorry. 13 -- 1342 --

10 MR. JASKE: It seems now that for all of
11 the CFM sections, even though it's titled 1342 --
12 in Paragraph A, it talks about 1343 through 1351.
13 And it refers in Paragraph D to forms -- it refers
14 to Paragraph G to alternative formats for
15 submitting --

16 STAFF COUNSEL HOLMES: You're right, it
17 does. You're right.

18 MR. JASKE: So I think that some of the
19 concerns that have been expressed here are
20 automatically capable of being dealt with through
21 the construction of these regulations. As Lynn
22 said, the demand forecast regulation provides, you
23 know, the broad overview of, of the actual amount
24 that you can get from, from the forecast. These
25 provisions, as I interpret them, grant discretion

1 to this Commission to customize, fine tune these
2 through the formal instruction process and can
3 fine tune it into different requirements for
4 different subsets of LSEs.

5 I think it's also applicable to the
6 issue that Mr. McLaughlin just raised about the
7 distinction between POUs as defined in UC Code
8 98620, I believe he said, versus PUC
9 jurisdictional. So those distinctions, where
10 they're appropriate, can be made when we actually
11 get to sort of this is the report we want you to
12 fill out. Because none of these regulations
13 really say what exactly is the nature of the
14 report we want you to turn in.

15 STAFF COUNSEL HOLMES: Mike raises an
16 excellent point. If we are extremely narrow and
17 very tailored in what these say, we'll be in this
18 perpetual rule-making process because the minute
19 something changes, we'll have to come back and
20 change this regulation again. It's an unworkable
21 concept. And so we've tried to have a broad set
22 of requirements that identify the maximum amount
23 of data that, that could be required, that could
24 be justified, and then deal with what's
25 specifically going to be required each cycle or

1 each reporting cycle based on the particular
2 circumstances at that time and based on the
3 specific issues that the Commission may be
4 focusing on.

5 But to have things so narrowly
6 identified that we have no flexibility whatsoever,
7 as I said, it just leads us into a perpetual
8 rulemaking cycle. Which, we don't want to do
9 this.

10 MR. McLAUGHLIN: Right. And I'm not
11 asking for the perpetual rulemaking, but AB 380 is
12 being implemented by the CEC here, by the CPUC and
13 its jurisdiction, and also the ISO in its recent
14 tariff filings. That, that particular Assembly
15 bill is being tossed about, everybody's trying to
16 grab ahold of it. And so having consistency and
17 also proper treatment for the POU's which are, are
18 defined in 9620, it's just something we're really
19 interested in.

20 Thank you.

21 MR. TOOKER: Can I ask if there is
22 anybody on the phone currently? Can you hear me?
23 Are you on the phone? Are you on the phone, is
24 there anybody on the phone? Hello?

25 MS. WHITE: I guess we lost our

1 connection, so we have to redial. Excuse the
2 interruption. Technical difficulty. We lost our
3 conference call number.

4 STAFF COUNSEL HOLMES: Just before we
5 got to --

6 (Note: Redialing telephone
7 connection.)

8 PRESIDING MEMBER PFANNENSTIEL: Caryn?
9 Caryn and Chris, while we're taking a break here,
10 technical break, we're trying to decide whether we
11 will break for lunch and go straight through. And
12 that's going to I think depend on how much longer,
13 in terms of the discussion, we have. I don't
14 think it's really determined by the number of
15 pages left, I think it's more the discussion that
16 we have left in the room.

17 STAFF COUNSEL HOLMES: How many people
18 have -- let me just ask, just a general question.
19 How many people have comments on confidentiality?

20 MS. WHITE: Before you continue you may
21 want to reconnect with the folks on the phone to
22 re-engage them, since they probably missed out on
23 the last 25 minutes.

24 (Note: Redialing telephone
25 connection.)

1 MS. SHERIFF: Hello.

2 MR. TOOKER: Hello, we're back on. We
3 lost connection.

4 MS. SHERIFF: Okay. Do you know how
5 much of the substantive meeting we missed?

6 STAFF COUNSEL HOLMES: What do you last
7 remember hearing?

8 MS. SHERIFF: You were going on a ten-
9 minute break.

10 STAFF COUNSEL HOLMES: Oh, my goodness.
11 I don't remember the point at which we took the
12 break. We have moved all the way up to Section
13 1347 on Page 57, Resource Plans.

14 MS. SHERIFF: Really.

15 MR. TOOKER: I think we had finished the
16 environmental before the break. Is that correct?

17 MS. SHERIFF: I think we had finished
18 the environmental before the break. So you've
19 done the forecast of loads and resources?

20 MR. TOOKER: Correct.

21 STAFF COUNSEL HOLMES: Do you want to go
22 back and comment, does anybody want to go back and
23 comment on any of the sections that you missed, up
24 to Section 1347.

25 MR. TOOKER: No comments?

1 STAFF COUNSEL HOLMES: That makes it a
2 lot easier.

3 MR. TOOKER: Are you still with us?

4 MS. SHERIFF: Well, we might have
5 comments in our written comments.

6 MR. TOOKER: Okay. That's fine.

7 MS. SHERIFF: I think what we'll just do
8 is we'll just jump ahead to where you are on Page
9 57?

10 STAFF COUNSEL HOLMES: Yes.

11 MR. TOOKER: Do you have a lot of
12 comments from here forward? We're trying to
13 determine whether we'll break for lunch.

14 MS. SHERIFF: Caryn, you were asking the
15 audience whether there are comments in the
16 confidentiality section.

17 STAFF COUNSEL HOLMES: And Mr. Klatt has
18 comments. Do you have additional comments besides
19 the ones that you have provided in writing?

20 MR. KLATT: No.

21 STAFF COUNSEL HOLMES: Okay. Because
22 I'm fairly familiar with those. Does anybody else
23 have comments on confidentiality?

24 MR. BROWN: I have about five, but we
25 can do them in written. The, the main concern

1 there is that a lot of work was done at the PUC in
2 the confidentiality OIR, which is still open. And
3 again, it's one of those dovetailing issues
4 because ultimately, while the -- I understand, you
5 know, two different agencies, two different
6 approaches on confidentiality, but what it
7 potentially creates is a situation where the
8 confidentiality we may receive in one agency can
9 be completely undermined by what ends up happening
10 in another in trying to avoid that concern and
11 degree of hyper-vigilance that has to occur if you
12 think that that problem might arise.

13 STAFF COUNSEL HOLMES: Right. The
14 confidentiality regulations don't address what is
15 or what isn't confidential. They only address the
16 process and, again, trying to distinguish between
17 what the executive director does and what standard
18 he or she uses. And what the Commission does.

19 MR. BROWN: Right.

20 STAFF COUNSEL HOLMES: So we didn't,
21 that doesn't go into that. If people want to
22 propose changes to the confidentiality regulations
23 they can do so. I, as I said, there is some
24 concern about language in the Warren-Alquist Act
25 that may limit our ability to change existing

1 confidentiality designations.

2 MR. BROWN: The automatic designation
3 issue?

4 STAFF COUNSEL HOLMES: Yes. Yes.

5 MR. BROWN: Okay. And then the only
6 other major substantive issue here was there's
7 some language about -- it, it's the issue of
8 tolling the application of a potential release
9 pending resolution of an appeal. There's some
10 four-week time periods that are allowed, or a
11 couple -- maybe it's 14 days --

12 STAFF COUNSEL HOLMES: Two weeks. Yeah.

13 MR. BROWN: -- that it, it seems to me
14 an appropriate time period to request a re-hearing
15 or appeal, but it's not clear that things are
16 tolled, or at least in the time I had to look at
17 it --

18 STAFF COUNSEL HOLMES: Okay.

19 MR. BROWN: -- that things are tolled
20 while an appeal is pending.

21 STAFF COUNSEL HOLMES: Okay. I
22 understand. Yeah, provide that comment in
23 writing. Our, our proposal was that we currently
24 have -- things are not released, if the Commission
25 makes a decision that something is public, it's

1 not released for two weeks in order to allow
2 people to, to seek a writ, and then it's
3 confidential during the appeal period, as well.

4 MR. BROWN: Okay.

5 STAFF COUNSEL HOLMES: So if I haven't
6 captured that, let me know.

7 MR. BROWN: Okay.

8 MR. TOOKER; Commissioner Pfannenstiel,
9 do you want to break, or just proceed?

10 PRESIDING MEMBER PFANNENSTIEL: I think
11 we should proceed.

12 MR. TOOKER: Thank you.

13 STAFF COUNSEL HOLMES: Okay. Do we,
14 maybe we can get the confidentiality -- should we,
15 do people want to finish up confidentiality now or
16 do they want to go back to resource plans?

17 MR. KLATT: Yeah. I just have one quick
18 comment.

19 STAFF COUNSEL HOLMES: Okay.

20 MR. KLATT: On Andy's comments. Greg
21 Klatt. I just wanted to build on, on Andy's
22 comments about having different determinations by
23 the PUC and the Energy Commission. I think that
24 there's more of a probability of that being the
25 case with respect to the utility data, and that

1 there's less of a probability of there being a, a
2 big conflict between determinations by the two
3 agencies with respect to ESP data, given that both
4 agencies have expressly recognized already that
5 there are differences between ESPs and the other,
6 other load-serving entities, particularly the
7 utilities.

8 And so I just wanted to throw that out
9 there, that this is something, this is an issue
10 that possibly could be worked out through this
11 process and, and not necessarily have this, this
12 -- such a big possibility for, for differences
13 between the two agencies. At least with respect
14 to ESPs.

15 STAFF COUNSEL HOLMES: Are there any
16 other comments about those proposed changes to the
17 confidentiality regulation? Yes.

18 MR. LANDON: I just had a question about
19 -- okay. Yes, Ralph Landon from SMUD. I had a
20 question about notification to the agency who
21 provided the confidential data that the data was
22 released. Is there any notification requirement?

23 STAFF COUNSEL HOLMES: If we don't
24 release data that's -- when we obtain data from
25 another agency and that other agency says it's

1 confidential, we don't release that data. We --

2 MR. LANDON: Even under the exceptions
3 addressed in the section on confidentiality?

4 STAFF COUNSEL HOLMES: We have -- we
5 have not, we usually -- usually there's an
6 agreement between the executive director, and the
7 agreement may address a situation in which if
8 circumstances change there would be notification.
9 But it's typically done outside of, of this
10 process. It's usually done, as I said, through an
11 agreement between the executive director and who's
12 ever providing the information.

13 MR. LANDON: Okay.

14 MR. WALSH: I just had a quick question.
15 Bill Walsh, with SCE.

16 It's not entirely clear, but we were
17 wondering, was it the staff's intention to have
18 hearings as a requirement for confidentiality
19 questions?

20 STAFF COUNSEL HOLMES: Hearings that go
21 -- anytime that the Commission makes a decision on
22 confidentiality there would need to be a hearing.
23 I think that's a, that's a requirement just
24 basically under the Open Meetings Act. But we do
25 have a process whereby an initial determination

1 can be made by the executive director without the
2 need for a hearing.

3 Any other comments on confidentiality?

4 Okay. Let's go back to resource plans,
5 Page 57, Section 1347.

6 MR. BROWN: Are we done with 1346?

7 STAFF COUNSEL HOLMES: I had thought we
8 were. If we're not, I need to hear about it.

9 MR. BROWN: Yeah, three comments.

10 STAFF COUNSEL HOLMES: Okay.

11 MR. BROWN: In, in the opening language
12 it talks about procurement activities that will
13 enable it, the LSE, to have adequate supplies to
14 serve loads for four years following, so that's
15 five years looking forward. And, and I guess my
16 issue is the resource adequacy requirement is, is
17 a procurement requirement that's not on that
18 timeline. And so I'm trying to make sure we're
19 not talking about what, sort of this looks like a
20 distinct procurement option.

21 STAFF COUNSEL HOLMES: No, it's not.

22 It's just our trying to get a sense of things
23 ahead of time so we can anticipate potential
24 problems.

25 MR. BROWN: Okay. And then when you

1 look at 1346, sub (e) and sub (g), I just, some of
2 the language here, I guess the way I'm reading it,
3 it seems to assume that a contract to provide RA
4 capacity is also carrying with it a right to the
5 energy. And the capacity can be unbundled from
6 the energy, it is simply an obligation that gets
7 put onto the suppliers to make the capacity
8 available to be dispatched by ISO.

9 And so the two things, the two concepts
10 here may not, may be bundled when you need to
11 think about it in an unbundled capacity.

12 STAFF COUNSEL HOLMES: Okay.

13 Any other comments? Greg.

14 MR. KLATT: Thank you. Does the
15 Commission see its authority to require this
16 report on resource adequacy to be derivative of
17 the Commission's, the Public Utilities
18 Commission's delegation of authority or request
19 for assistance in nurturing its program, or is
20 this being done based upon separate authority that
21 applies just to the Energy Commission?

22 STAFF COUNSEL HOLMES: We can't adopt a
23 regulation based on authority given to the PUC.
24 This is all information that we're entitled to
25 request under the Warren-Alquist Act. I, I

1 shouldn't say under the Warren-Alquist Act.
2 Under statutes that give the Energy Commission
3 authority, because there are statutes in the
4 Public Utilities Code that tell the Energy
5 Commission to do certain things.

6 Does that answer your question?

7 MR. KLATT: Yeah. My next question is
8 what is the cite, I guess I could find it myself,
9 but --

10 STAFF COUNSEL HOLMES: Well, there's,
11 there's -- there is very broad authority that we
12 have for collecting data in general under the,
13 under the Warren-Alquist Act provisions, and Mike,
14 I cannot remember the bill number for --

15 MR. JASKE: Mike Jaske, CEC staff. From
16 the perspective of forecasting information, of
17 which the Resource Act is a subset, 1389, I think
18 it's 25302 or 30 --

19 STAFF COUNSEL HOLMES: 303?

20 MR. JASKE: Yeah, one, one of those, 012
21 or 3, one of those. It essentially has a sentence
22 in there that essentially says the Energy
23 Commission can collect anything from anybody.

24 STAFF COUNSEL HOLMES: I wouldn't
25 characterize it that way.

1 (Laughter.)

2 MR. JASKE: I would say that the part of
3 the provision of AB 380 that Mr. McLaughlin was
4 turning to our attention earlier about collecting
5 resource adequacy data from POUs was, in some
6 respects, frivolous, because we already
7 essentially have that authority. And, you know,
8 it's sort of more calling our attention to the
9 fact that that's an activity that the Energy
10 Commission should be carrying out through looking
11 at POU resource adequacy and then, of course,
12 submitting a report to the legislature. That's a
13 directive in that part of AB 380.

14 But any collection part itself, I think,
15 wasn't absolutely necessary, or at least in my
16 view, because of this very, very broad provision
17 in 2530123, one of those that, that was made
18 through AB 1389.

19 STAFF COUNSEL HOLMES: Next question.
20 Yes.

21 MR. KERNER: Yeah. Doug Kerner again,
22 for IEP. Now that Mike's cleared the, the
23 minefield up, this to some degree falls in the
24 category of, you know, where do we go next. I
25 think there's a, a large, I detect a large amount

1 of, of consensus that additional time to work on
2 the written paper would be helpful, just to get
3 the four corners of this thing put together.

4 But I think in addition to that, there
5 have been identified today and, and Mr. Jaske I
6 think has really, really hit it. There's a very
7 significant philosophical point of view being
8 brought to bear here that I do not think drove the
9 adoption of data regulations in the past. In
10 fact, I think Ms. Holmes introduced the meeting
11 with a comment that pleased me very much, which in
12 large respect is why I've been, you know, pretty
13 quiet and pretty content, which is, you know,
14 we're going to look at things like, you know, what
15 do you guys actually have, what do we really need,
16 can we get it somewhere else. We're going to
17 coordinate to the maximum degree possibly, and
18 presumably once having decided we need it, we're
19 going to adopt the most minimal as possible, least
20 burdensome way of getting what we actually need.

21 And as the day has evolved, it sounded
22 that these regulations are being tailored quite
23 opposite, to say well, if we are allowed to have
24 it, we're going to ask for it. Or we're going to
25 write in an ability to get it. And we may not

1 actually do that, but we're going to position our
2 -- you know, we're positioning ourselves for
3 flexibility on it. I understand that. It could
4 have value.

5 But I think there's a very, very
6 significantly different way of going about this
7 type of regulation than one which says we're going
8 to do the least harm we possibly can to get the
9 material that we have to have. And that involves
10 some steps that I think maybe require some
11 additional discussion. Including on things like
12 the environmental stuff. That was an area where
13 it was, I think everybody kind of agreed there was
14 some room there to, to haggle a little bit and
15 figure out what exactly we were going to do.

16 So that's where IEP's coming from.
17 We're obviously, you know, happy to, and will, you
18 know, go forward with this, but I, but I, I'd
19 just, you know, share that perspective with you,
20 and leave it at that.

21 Thank you very much.

22 STAFF COUNSEL HOLMES: Yes. You've been
23 waiting a long time.

24 MS. KELLANI: Yeah. I would just like
25 to make a general comment that both Sections 1346

1 and 1347 appear to have a lot of duplicity with,
2 with the Commission's proceedings. And again,
3 repeating what the gentleman that just spoke about
4 trying to minimize duplicative work, and if data's
5 already existing someplace else to use that, if,
6 if we provide resource adequacy information to the
7 Commission can we at least use the same form, the
8 same process, the same data and so that we don't
9 have to do it all over again just because Warren
10 requires it in a different sliced and diced
11 manner.

12 And in 1347, it really looks like it's
13 duplication of the long-term procurement planning
14 proceeding at the Commission, and --

15 STAFF COUNSEL HOLMES: At the PUC?

16 MS. KELLANI: I mean, at the, at the
17 PUC, sorry, the PUC. And we would like, I think
18 that, that further discussion in this are via a
19 workshop, you know, could make it so that it's the
20 same process in both places and we don't have to
21 do it twice.

22 MS. SHERIFF: This is Nora Sheriff. I
23 have a, a comment on 1346 and 1347, also.

24 This is, these are two of the sections
25 that, you know, looking at customer generation

1 who's only serving their own onsite load, or
2 serving one person over the fence, it might not
3 necessarily apply to them even though they're
4 captured by the LSE definition. I mean, they're
5 not going to have an optimal load program, price
6 sensitive demand response program, so on and so
7 forth, that are listed in C under 1346, talking
8 about the electricity resource adequacy.

9 STAFF COUNSEL HOLMES: Right. Does any
10 -- Mike, do you want to respond to that?
11 Including, including by using the term LSE
12 including generators in 1346 and 1347.

13 MR. JASKE: Well, we'll do the last
14 first. My understanding of LSE doesn't mean
15 generation facility. The intent that industrial
16 customers of the type that share or possibly
17 represents the PUC, you know, cogenerate and
18 satisfies some or all of their own electricity
19 requirements, that may well be a, a reflected, or,
20 or a consideration when we get to the forms of,
21 forms of instruction process that would, the
22 Commission would take into account in deciding
23 whether or not those entities should supply
24 anything.

25 And then to the point that Ms. Kellani

1 made, I, I think the Commission would also would
2 be paying attention to that very same point with
3 respect to what PUC jurisdictional entities would,
4 would ask to supply with respect to resource
5 adequacy. You know, maybe the PUC packaging of
6 material is perfectly satisfactory for those PUC
7 jurisdictions, and in effect the instructions
8 would create something new just for the POUs, and
9 that may or may not be the same from what the PUC
10 jurisdiction will perhaps do.

11 They go through all the things that,
12 what I understand 1342, particularly paragraphs
13 (b) and (g) to meet. There should be forms of
14 instruction, and they can be alternative formats.
15 That's sort of the way you would deal with these
16 subject matters. Specific regulations ought to be
17 looked at.

18 STAFF COUNSEL HOLMES: More comments on
19 1346 or 1347?

20 Pricing information on page 58. Calling
21 out, or distinguishing between retail and
22 wholesale prices. Any comments on that? And
23 including historical variables.

24 Section 1349, also on page 58, is, are
25 attempts to collect transmission system

1 information. Some of it is pulled out of the old
2 1346, I believe. I can't remember now. And some
3 of the language is new.

4 My understanding is that staff worked
5 quite closely with many, if not all the
6 transmission system owners in drafting this. Are
7 there any comments on this section? Sounds like
8 maybe they did their homework.

9 MR. TOOKER: Comment.

10 STAFF COUNSEL HOLMES: Comment?

11 MR. WALSH: The transmission people who
12 took a look at it I guess generally were happy
13 with it. I probably don't need to reiterate what
14 was said in our comments, but there is that one
15 point about the maintenance and construction plans
16 at the same time provided, I believe at the same
17 time as an upgrade plan. And it just didn't, in
18 terms of the processes that are used, it just
19 didn't, it's just not practical. It's just not
20 the way things happen.

21 STAFF COUNSEL HOLMES: Great. Okay.

22 Well, give us, again, give us comments with a
23 suggested schedule for submission of information.
24 That will be helpful.

25 MR. HESTERS: I can clarify that one,

1 too. I mean, when looking at the maintenance and
2 -- well, mostly it was about the maintenance. We
3 were looking at that as something that would be
4 applied through out summer assessments, which
5 we're looking maybe one and two years out. So
6 when you're looking at maintenance for
7 transmission lines, we don't expect anybody to
8 have a 20-year maintenance schedule for
9 transmission facilities.

10 MR. WALSH: But I think you would -- it
11 would -- maybe not so much maintenance, but on
12 upgrades or when I do a planning upgrade, they
13 create the planning upgrade, when they finally get
14 to the study portion where you figure out what the
15 reduced transfer capabilities are, those studies
16 aren't actually done until right before, I guess,
17 they'll actually go down.

18 MR. HESTERS: Again, that's when we'd,
19 that's what we'd expect, is if you knew what was
20 going to be out for six months or a year --

21 MR. WALSH: It's sort of a timing thing.

22 MR. HESTERS: Yes, exactly. That one's
23 easy to work out.

24 MR. WALSH: Okay. Thank you.

25 STAFF COUNSEL HOLMES: Exemptions. I

1 think we've, I think we've covered. We're talking
2 about providing the opportunity for partial and
3 full exemptions for LSEs with a peak demand of a
4 thousand megawatts or less during the two previous
5 years. And again, the intent was to allow the
6 Commission to provide complete exemptions for
7 certain sections or parcel exemptions, and we've
8 done this in the past where we said there's some
9 reporting requirements, but not all of them for
10 various entities that are subject to reporting
11 under the IEPR process.

12 Are there any comments or questions
13 about 1350? Greg.

14 MR. KLATT: I want to --

15 MS. SHERIFF: Declare that the thousand
16 megawatts, or a hundred megawatts?

17 STAFF COUNSEL HOLMES: It is a hundred
18 megawatts or less.

19 MS. SHERIFF: Thank you.

20 MR. KLATT: Just a suggestion. Maybe
21 the -- the first paragraph be Subsection (A), and
22 then have the Subsection (B) start with the
23 Commission may order, and then have the A and B
24 re-numbered one and two.

25 STAFF COUNSEL HOLMES: That would be

1 fine.

2 MR. KLATT: And that way that clarifies
3 that the Commission can do this on its own and
4 doesn't have to wait for an application from some
5 LSE before it can issue an order changing that.

6 STAFF COUNSEL HOLMES: Well, there's
7 clearly overlap with, between this and the
8 development of the forms and instructions, as Mike
9 has, has been discussion. But yeah, we can make
10 that change. I don't like to have sections
11 without subsection numbers, but that was existing
12 and so I just left it. But I can certainly change
13 it.

14 Any other comments on Section 1350?

15 So --

16 MS. AGUAYO: Excuse me. Can I --

17 STAFF COUNSEL HOLMES: Yes.

18 MS. AGUAYO: Stacy Aguayo, with energy
19 services. Can I discuss real quick 1348?

20 STAFF COUNSEL HOLMES: Sure.

21 MS. AGUAYO: 1348, can you clarify if
22 that applies to ESPs?

23 STAFF COUNSEL HOLMES: It does.

24 MS. AGUAYO: Thank you.

25 STAFF COUNSEL HOLMES: Yes.

1 So I believe we're done with the
2 substantive discussion. We have a lot of food for
3 thought, and at least we've got one entity that
4 has asked for a two week -- was it two weeks from
5 now, or two weeks from the eighth? I didn't --

6 PRESIDING MEMBER PFANNENSTIEL: Let me
7 just see if anybody has any additional comments,
8 anything else that you want to get out here before
9 we talk about the opportunity for written
10 comments.

11 Okay. The, the current schedule, then,
12 is to have written comments by May 8th. I guess
13 yesterday. And we're of course willing to let
14 that slip, but I can tell you that Commissioner
15 Geesman and I are very conscious of wanting to get
16 these rules adopted and in place before the end of
17 the year. And as anything slips, you know, we all
18 are familiar with, with how it goes.

19 So what I'd suggest is that we do allow
20 the two weeks, so instead of being May, May 8th,
21 it becomes May 22nd.

22 Now, there's also the discussion, there
23 was a discussion earlier about then having another
24 workshop, with the next version of that. I think
25 given the comments we all heard today, some very

1 small and technical, some very broad and, and
2 generic, I, I think that we may need a workshop.
3 I think I would like to see what the comments are
4 that come in, and it, it may be a fact that
5 another round of written comments makes more sense
6 than, you know, staff will turn around based on
7 the comments received on the 22nd, another
8 version. And once we see the comments that come
9 in we can decide whether there is a workshop.

10 I think it looks possible. I mean, you
11 know, all the different discussion, but I don't
12 think it's inevitable. So let's wait and see.

13 ASSOCIATE MEMBER GEESMAN: You have to
14 notice if you don't decide to --

15 PRESIDING MEMBER PFANNENSTIEL: We don't
16 have to notice after we get the comments on the
17 22nd, so that does put us quite a bit farther out.

18 ASSOCIATE MEMBER GEESMAN: So you may
19 want to preemptively notice a workshop that may
20 not happen.

21 PRESIDING MEMBER PFANNENSTIEL: And then
22 cancel it if we can do that.

23 MR. BROWN: I guess my, my thought was
24 that perhaps the Commission having a workshop and
25 ironing out before something is sent to OAL, has a

1 lot more time savings.

2 PRESIDING MEMBER PFANNENSTIEL: Well, I
3 do think that we do want to get it resolved before
4 it goes to OAL. Caryn, your thought on perhaps
5 scheduling a workshop now that we may or may not
6 need?

7 STAFF COUNSEL HOLMES: That's probably
8 the most prudent thing to do. And, and, I mean,
9 we obviously have to go out with a written notice,
10 but as long as we've got people here, if we can
11 pick a time and, and then -- and we understand
12 amongst ourselves that we may not need it or the
13 Committee may choose to just ask for another round
14 of written comments. It's certainly the easiest
15 way to find out what would work if we hold one.

16 PRESIDING MEMBER PFANNENSTIEL: Okay.
17 Well, then if we have comments coming in on the
18 22nd, what would make sense for a follow-up
19 workshop?

20 MR. TOOKER: If we had a workshop ten
21 days after that, or --

22 STAFF COUNSEL HOLMES: I did bring my
23 calendar for just that reason. So you were
24 talking about getting comments on the 22nd. So
25 ten days after that would be --

1 MR. TOOKER: You need staff time to,
2 just to take comments and --

3 STAFF COUNSEL HOLMES: Well, that's, I
4 mean, is there going to -- that's, that's the
5 first question. Would you then have a staff,
6 would you have a workshop on the, on the comments
7 that are provided, or would staff provide
8 revisions and then you have a workshop? That's --

9 MS. WHITE: Revisions, and then a
10 workshop. So we're into the second week in June.

11 MR. TOOKER: I guess I'm a little
12 concerned. What I'm hearing here is the dialogue
13 would be beneficial, and I agree with that. But
14 if we're going to get the comments and then make
15 changes without dialogue, I'm wondering whether
16 that's going to be an efficient use of time.

17 MS. KELLANI: I agree. I think that it
18 might -- it depends on kind of comments, because
19 if, if people are proposing, for example, new
20 changes that weren't proposed before in comments,
21 then you're not going to be revising your thing on
22 one party's proposing a change without a
23 discussion around it.

24 STAFF COUNSEL HOLMES: One option would
25 be to schedule a workshop that is simply for

1 purposes of discussing what comes in, very shortly
2 after they come in, three or four days, something
3 like that, where we don't -- and we may or may not
4 choose to hold that, but at least now we could say
5 that that's a tentative --

6 MR. TOOKER: And we could do that under
7 the regulations with that short a timeframe after
8 we receive comments?

9 STAFF COUNSEL HOLMES: Well, you have to
10 notice it now. You have to notice it the next
11 couple of days.

12 MR. TOOKER: Okay.

13 STAFF COUNSEL HOLMES: And so, I mean,
14 that's one possibility. And then staff, but, see,
15 then they're saying they would want a second
16 workshop on the staff proposed changes. If we
17 held a workshop, say, on the -- we got comments on
18 the 22nd, and we held a workshop on their comments
19 on the 25th, I can't imagine we could come up with
20 changes any sooner than a week.

21 MR. McKINNEY: And you've got Memorial
22 Day in there, too.

23 STAFF COUNSEL HOLMES: And Jim, you
24 start to have people's vacations. Including mine.

25 PRESIDING MEMBER PFANNENSTIEL: Caryn,

1 Commissioner Geesman and I just compared
2 calendars.

3 STAFF COUNSEL HOLMES: Okay. That's a
4 good starting point.

5 PRESIDING MEMBER PFANNENSTIEL: That's a
6 good starting point. I thought so. Monday, June
7 12th, he and I are both in town. He'll be gone
8 after that. I will be gone a large part of the
9 time before that.

10 STAFF COUNSEL HOLMES: That needs to be
11 a workshop on staff, a revision of staff draft.
12 We cannot wait from the 22nd to the 12th. Okay.
13 So you'll get your comments in on the 22nd. I
14 don't know how long it will take us to -- should
15 we, if we try to get comments out on the 5th,
16 then, a revision out on the 5th, that gives us two
17 weeks.

18 MR. TOOKER: Well, we would have a
19 workshop on the comments?

20 STAFF COUNSEL HOLMES: No. No workshop
21 on the comments. The comments come in on the
22 22nd, and we file revised text somewhere between
23 the 31st and the 5th, and we hold a workshop on
24 the 12th. It's very hard for me to estimate how
25 long it would take to make changes until we see

1 the proposal.

2 PRESIDING MEMBER PFANNENSTIEL: Mike,
3 you had a comment.

4 MR. JASKE: Yeah. I, I have worries
5 about meeting that way, and I'm also worried about
6 staff being put in a position to respond to, you
7 know, major comments on its own without some -- it
8 seems to me it would be, if it is at all possible,
9 make a little bit more sense to have a workshop
10 immediately after these comments.

11 STAFF COUNSEL HOLMES: That's what I was
12 suggesting.

13 MR. JASKE: And, and, you know, or seek
14 some direction from the Committee where there are
15 large, you know, major issues, because the staff
16 would choose, you know, whatever the Committee
17 wanted to -- we would've, I think, actually wasted
18 a lot of time.

19 MR. TOOKER: Were you saying that the
20 Committee won't be available?

21 PRESIDING MEMBER PFANNENSTIEL: No, I
22 said that part of that time I wouldn't be. I was
23 going to be gone, and then John was going to be
24 gone. But if we did it right after the comments
25 came in, later that week, I guess.

1 MS. MARSHALL: On the other hand, we
2 don't have to have public workshop for staff to
3 get guidance from the Committee.

4 PRESIDING MEMBER PFANNENSTIEL: So we
5 have the 25th, May 25th.

6 MR. TOOKER: Yes. For the -- to discuss
7 the comments to be filed on the 27th.

8 PRESIDING MEMBER PFANNENSTIEL: I think
9 that that --

10 STAFF COUNSEL HOLMES: Well, that's,
11 that's an interesting question. Do we want to try
12 to establish, does the Committee have any interest
13 in establishing some sort of a service list, or do
14 you want us to post things?

15 PRESIDING MEMBER PFANNENSTIEL: How have
16 you done it in --

17 STAFF COUNSEL HOLMES: Some people are
18 going to prefer service and some people are going
19 to prefer posting. In other words, when people's
20 comments come in on the 22nd, everybody's going to
21 want to know what everybody else's comments are.
22 One way to deal with it is for us to post them all
23 up on our web page. I don't know how long that
24 will take.

25 Another is simply to establish a service

1 list requirement for the people that are here or
2 on the telephone, and include that in the, in the
3 notice. That's --

4 PRESIDING MEMBER PFANNENSTIEL: An e-
5 mail service.

6 STAFF COUNSEL HOLMES: Right. It would
7 be electronic.

8 MR. TOOKER: I can talk with Bob Aldrich
9 and see what we can facilitate in terms of e-
10 mailing.

11 STAFF COUNSEL HOLMES: If it's going to
12 take, if it's going to take a lot of time to get
13 them posted, if it's going to take two or three
14 days, we're going to have to do it with the
15 service list.

16 So we will, we will let you know when
17 the order goes out for that workshop, I think.

18 ASSOCIATE MEMBER GEESMAN: The service
19 list would provide people with others' comments
20 more quickly?

21 MR. TOOKER: Yes.

22 STAFF COUNSEL HOLMES: Right. We would
23 say in the order, and when you file your comments
24 not only serve dockets and the two Commissioners
25 and me, serve these parties, and it would be --

1 before we leave today we need to know who that's
2 attended this workshop would like to be on that
3 service list. We may not need to use it, but we
4 need to develop a list now.

5 ASSOCIATE MEMBER GEESMAN: Why, why
6 would we not be in favor of a service list?

7 STAFF COUNSEL HOLMES: Because we have
8 to go through the process of establishing it now.
9 And it may be that Bob Aldrich can get the
10 comments up on the web the same day they come in.
11 I don't know.

12 MR. TOOKER: Well, we, but we currently,
13 for this workshop we'd send out a notice to the
14 energy policy list.

15 STAFF COUNSEL HOLMES: How many people
16 are on the service list?

17 MR. TOOKER: I don't know.

18 MS. WHITE: The, the web page has, has
19 been established, and you can --

20 STAFF COUNSEL HOLMES: I'm just
21 wondering, do we want to send it, do we want to
22 make these guys send it to everybody, or do we
23 want to set just a list of, the service list would
24 be the people that have shown up and expressed an
25 interest in this proceeding, as opposed to -- I

1 was assuming that the service list, that this
2 notice went out to hundreds and hundreds of
3 people, so.

4 PRESIDING MEMBER PFANNENSTIEL: Well, I
5 think we at least need to make sure that people
6 who are here and people on the phone, we have
7 their contact information so if we determine that
8 we need to do a service list, we have that
9 information.

10 STAFF COUNSEL HOLMES: So does somebody
11 want to start asking -- or we can have, we --

12 PRESIDING MEMBER PFANNENSTIEL: And
13 then, when we have the notice, we'll make that --

14 STAFF COUNSEL HOLMES: I have another
15 suggestion, and that's that I suggest that
16 everybody who wants to be on the service list e-
17 mail me.

18 (Parties speaking simultaneously.)

19 STAFF COUNSEL HOLMES: C-Holmes, C-h-o-
20 l-m-e-s, @energy.state.ca.us.. If you want to be
21 on the service list, e-mail me.

22 PRESIDING MEMBER PFANNENSTIEL: All
23 right. Let me just quickly, then, summarize. We
24 are going to have written comments in by May 22nd.
25 We will find one way or the other to get those

1 shared among all interested parties.

2 STAFF COUNSEL HOLMES: One way or the
3 other.

4 PRESIDING MEMBER PFANNENSTIEL: And
5 we'll have another workshop, a Committee workshop
6 on May 25th.

7 MR. TOOKER: To discuss those comments.

8 PRESIDING MEMBER PFANNENSTIEL: To
9 discuss, specifically discuss those comments.

10 MS. WHITE: Did you want to have a
11 follow-up workshop on June 12th to define what it
12 is that the Committee may want to do, do you want
13 to keep that as an option?

14 PRESIDING MEMBER PFANNENSTIEL: Yeah.
15 I, I don't know that we want to set that right
16 now.

17 MS. WHITE: Okay.

18 STAFF COUNSEL HOLMES: If there was
19 going to be another workshop, I think that people
20 are correct that it would need to be on the next
21 iteration of the staff proposal, and I don't know
22 if we can come up with a staff proposal that
23 people will have time to comment on between the
24 25th and the 12th. We'll just have to see.

25 PRESIDING MEMBER PFANNENSTIEL: Anything

1 else?

2 MS. SHERIFF: This is Nora Sheriff
3 again. I just want to make sure, there will be a
4 transcript for this workshop available in that two
5 weeks, is that correct?

6 STAFF COUNSEL HOLMES: Yes.

7 MR. TOOKER: Yes.

8 MS. SHERIFF: Thank you.

9 MS. WHITE: As long as you guys expedite
10 it.

11 PRESIDING MEMBER PFANNENSTIEL: Anything
12 else?

13 Okay, we'll be adjourned. Thank you.

14 (Thereupon, the California Energy
15 Commission Committee Workshop on Staff
16 Proposed Changes to Data Collection
17 Regulations was adjourned at 12:49 p.m.)

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CERTIFICATE OF REPORTER

I, PETER PETTY, an Electronic Reporter,
do hereby certify that I am a disinterested person
herein; that I recorded the foregoing California
Energy Commission Committee Workshop; that it was
thereafter transcribed into typewriting.

I further certify that I am not of
counsel or attorney for any of the parties to said
Committee Workshop, nor in any way interested in
the outcome of said matter.

IN WITNESS WHEREOF, I have hereunto set
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